

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE NORTHERN DISTRICT OF OHIO  
3                   EASTERN DIVISION

4                   IN RE: NATIONAL                   :   MDL No. 2804  
5                   PRESCRIPTION OPIATE           :     
6                   LITIGATION                   :   Case No. 17-md-2804  
7                   APPLIES TO ALL CASES           :     
8                   :   Hon. Dan A. Polster  
9                   :     
10                   :     
11                   :     
12                   :   

13                   HIGHLY CONFIDENTIAL

14                   SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

15                   - - - - -

16                   JANUARY 22, 2019

17                   - - - - -

18                   VIDEOTAPED DEPOSITION OF WALTER WAYNE DURR,  
19                   taken pursuant to notice, was held at Marcus &  
20                   Shapira, One Oxford Center, 35th Floor, Pittsburgh,  
21                   Pennsylvania 15219, by and before Ann Medis,  
22                   Registered Professional Reporter and Notary Public in  
23                   and for the Commonwealth of Pennsylvania, on Tuesday,  
24                   January 22, 2019, commencing at 8:57 a.m.

25                   - - - - -

26                   GOLKOW LITIGATION SERVICES  
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22 Also present

23 Tyler Crotty, legal videographer

24

25

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10	Exhibit 2	Email chain, 10/27/09, from A. Zelaski to W. Durr, subject: FW: Reporting HBC_MDL00128698	21
12	Exhibit 3	HBC Service Company's Responses to Plaintiffs' (First) Set of Combined Discovery Responses P-HBC-0011 - 0011.20	36
14	Exhibit 4	Giant Eagle Inventory Control - Suspicious Order Policies with various effective dates HBC_MDL00078638 - 00078639 HBC_MDL00078636 - 00078637 HBC_MDL00045916 - 00078918 HBC_MDL00051908 HBC_MDL00043414 HBC_MDL00010092 - 00010093	36
19	Exhibit 5	Email, 4/9/15, from S. Green to D. Stevens, et al., subject: All policies for VAWD reflected as of 5:00pm today, attaching various policies HBC_MDL00078594 - 00078668	42
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13 Exhibit 8	14 Email chain, 9/2/15, from E. Hart 15 to R. McClune, subject: RE Vault/ 16 Refrigeration 17 HBC_MDL00127457 - 00127460	18 56
19 Exhibit 9	20 Email, 8/28/15, from J. Millward to 79 21 E. Hart, et al., subject: 30-010 - 22 Inventory Control - Suspicious Order 23 Policy FINAL.docx, attaching 30-010 - 24 Inventory Control - Suspicious Order 25 Policy FINAL.docx HBC_MDL00169475 - 00169477	26 79
27 Exhibit 10	28 DEA Drug Fact Sheet for 115 29 Hydrocodone 30 P-GEN-0086.1 - 0086.2	31 115
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1 P R O C E E D I N G S

2 - - - -

3 THE VIDEOGRAPHER: We are now on the  
4 record. My name is Tyler Crotty. I'm a  
5 videographer for Golkow Litigation Services.

6 Today's date is Tuesday, January 22, 2019,  
7 and the time is 8:57 a.m.

8 This video deposition is being held at  
9 Marcus & Shapira, LLP, One Oxford Centre,  
10 Pittsburgh, PA, in the matter of National  
11 Prescription Opiate Litigation MDL, for the Court  
12 of the Northern District of Ohio.

13 The deponent is Walter Durr.

14 Will counsel please identify themselves and  
15 state whom they represent.

16 MR. HUDSON: Ty Hudson of Wagstaff &  
17 Cartmell for plaintiffs.

18 MS. MONAGHAN: Meghan Monaghan from  
19 Covington & Burling for McKesson.

20 MS. BOURIAT: Jennifer Bouriat from  
21 Pietragallo for Cardinal.

22 MR. BARNES: Robert Barnes, Marcus &  
23 Shapira, for HBC Service Company.

24 THE VIDEOGRAPHER: Is there any counsel  
25 on the phone that could identify themselves,

1 please?

2 MR. BRODSKY: This is Richard Brodsky  
3 from Jones Day on behalf of Walmart.

4 MS. GUTHRIE: This is Erica Guthrie from  
5 Arnold & Porter on behalf of the Endo and Par  
6 defendants.

7 MR. LANOSA: This is Mike Lanosa from  
8 Covington & Burling on behalf of McKesson  
9 Corporation.

10 THE VIDEOGRAPHER: The court reporter is  
11 Ann Medis and she will now swear in the witness.

12 WALTER WAYNE DURR,  
13 having been first duly sworn, was examined  
14 and testified as follows:

15 EXAMINATION

16 BY MR. HUDSON:

17 Q. Good morning, sir. Could you please  
18 state your name.

19 A. Walter Wayne Durr, D-U-R-R.

20 Q. And, Mr. Durr, my name is Ty Hudson. I  
21 represent the plaintiffs in this case. I'm going  
22 to be taking your deposition today.

23 Have you had your deposition taken before?

24 A. Yes.

25 Q. How many times?

1 A. Just once.

2 Q. In what type of case was it?

3 A. An insurance case.

4 Q. And were you a party or just a witness?

5 A. Witness.

6 Q. Was it related to your job at Giant

7 Eagle --

8 A. Yes.

9 Q. -- or HBC?

10 A. Giant Eagle.

11 Q. And when was that case and how recent?

12 A. It was in the late '80s, I believe.

13 Q. Well, it sounds like it's been a little  
14 while since you've had your deposition taken. So  
15 let's make sure that we understand the ground  
16 rules.

17 I'm going to be asking the questions today,  
18 and then you're going to be providing answers.

19 From time to time counsel might object for the  
20 record. Unless Mr. Barnes instructs you not to  
21 answer, though, I would ask that after the  
22 objections you'd answer my questions.

23 Is that fair?

24 A. Okay.

25 Q. Also, do you understand that you're

1 under oath as if you were in a courtroom in front  
2 of a judge and a jury?

3 A. I do.

4 Q. And the answers need to be audible just  
5 for the court reporter. So head nods and those  
6 things like that are more difficult to pick up.

7 Okay?

8 A. Okay.

9 Q. If you need to take a break at any time,  
10 let me know, and I'm happy to. We'll just go off  
11 the record, and you can do so.

12 All I would ask is that if there's a pending  
13 question, you answer the question before we go on  
14 the break.

15 Is that fair?

16 A. That is.

17 Q. Before we get going into the substance,  
18 let me ask you this: What did you do to prepare  
19 for the deposition today?

20 A. Had time with Bob yesterday.

21 Q. And approximately how long would you say  
22 that meeting lasted?

23 A. A few hours.

24 Q. Anything else that you did to prepare  
25 for the deposition?

1 A. No.

2 Q. Did you talk to anyone?

3 A. No.

4 Q. Would that be true about this case in  
5 general? Have you talked to anyone at Giant Eagle  
6 about this case?

7 MR. BARNES: I'll just --

8 BY MR. HUDSON:

9 Q. Other than lawyers.

10 MR. BARNES: -- caution you. Anything  
11 related to attorneys for Giant Eagle or for you,  
12 excluding that.

13 THE WITNESS: No.

14 BY MR. HUDSON:

15 Q. When did you first become aware of this  
16 lawsuit?

17 A. I don't have the exact date. Sometime  
18 in 2018.

19 Q. And I meant to ask you this before.

20 What is your current address? Where do you live?

21 A. 111 Dehaven Road, Beaver Falls, PA  
22 15010.

23 Q. So you live in Pennsylvania?

24 A. Yes.

25 Q. Tell me, if you could, about your

1 education.

2 A. I have a bachelor's degree from a local  
3 university, Point Park University.

4 Q. And when you say local, local to where,  
5 sir?

6 A. Local to Pittsburgh. Sorry.

7 Q. I'm from Kansas City.

8 A. All right.

9 Q. No. That's okay.

10 So from here in Pittsburgh.

11 A. Yes, sir.

12 Q. And any other advanced degrees after you  
13 graduated from college?

14 A. No.

15 Q. Did you go straight to work after  
16 college, graduating from college?

17 A. I was working while I was going to  
18 college.

19 Q. Could you just describe for me your  
20 employment history from when you graduated from  
21 college up until today?

22 A. I worked for a company called Foxmeyer  
23 Drug Corporation, who then went bankrupt, and then  
24 Giant Eagle took over those operations in 1996.  
25 And I've been with Giant Eagle since that time.

1                   MR. BARNES: Ty, I think you may be  
2 assuming the traditional "went to college and then  
3 began working." I think it's a little different  
4 here.

5 BY MR. HUDSON:

6                   Q. Do you want to just explain that?

7                   A. Out of high school, I went to the -- was  
8 in the service. Spent close to seven years in the  
9 service and then got out. And then went to  
10 college, had a family and kids. And so I was  
11 working, going to college, and went from there.

12                  Q. And so you've been at Giant Eagle for  
13 close to 30 years?

14                  A. No.

15                  Q. Or 20 years, I mean; right?

16                  A. Yeah.

17                  Q. You had 1996 to 2008, so about 22 years;  
18 right?

19                  A. Yes.

20                  Q. And, if you could, just walk me through  
21 the roles that you've had at Giant Eagle from 1996  
22 to the present.

23                  A. Started out as a selector, rank and  
24 file, if you will. Opportunity -- that was prior  
25 to Giant Eagle.

1           So I came into Giant Eagle as a supervisor.  
2           And within less than a year, I was promoted to a  
3           shift manager. I then took a role as the HR  
4           manager. And then I had an opportunity to become  
5           the operations manager.

6           Q. And is that your current role today?

7           A. It is. And there's a time that I had  
8           left HBC to fill a different role within Giant  
9           Eagle at another facility.

10           Q. And what was that timeframe?

11           A. Well, there's two of them. 2003 I was  
12           the HR manager for Okay Grocery.

13           Q. How long did you remain in that role at  
14           Okay Grocery?

15           A. Approximately ten months to a year. And  
16           then that's when I assumed the operations manager  
17           role.

18           And then I was asked to go to Fresh Food  
19           Manufacturing in 2012. And I was there until  
20           2015.

21           Q. And then when you came back in 2015, you  
22           went back to the operations manager role?

23           A. For HBC, yes.

24           Q. For HBC. And have all of the positions  
25           that you've been at when you've been the shift

1 manager, the HR manager, and then the operations  
2 manager, were those all at the HBC warehouse?

3 A. No. As I stated, I started HR at HBC,  
4 but then was HR for Okay Grocery Company, which is  
5 a subsidiary of Giant Eagle. And then I was  
6 operations manager for Fresh Foods Manufacturing.

7 Q. Right. And I'm sorry. That was a bad  
8 question.

9 I meant to -- I meant other than the two  
10 times when you left -- I was really more focused  
11 on during the time that you were at Giant Eagle or  
12 HBC. During that time period, was it -- were you  
13 always located, physically located at the HBC  
14 warehouse?

15 A. Yes.

16 Q. And were you an employee of HBC or an  
17 employee of Giant Eagle, if you know?

18 A. Technically, it's Giant Eagle. But HBC  
19 is a subsidiary of Giant Eagle.

20 Q. Did HBC have any employees that you're  
21 aware of? And maybe the legal distinctions don't  
22 mean anything to you. I'm just trying to figure  
23 out --

24 A. Yeah.

25 Q. -- if there's --

1 A. The distinctions don't mean anything.

2 Q. Right. I mean, I don't know if you've  
3 ever looked at payroll --

4 A. No.

5 Q. -- or W-2s or things --

6 A. Ours come from Giant Eagle.

7 Q. So to your knowledge, are there any --  
8 yeah -- are there any employees that are on  
9 payroll that are receiving payment from HBC  
10 Service Company?

11 A. No.

12 Q. To your knowledge, all of the employees  
13 at the HBC warehouse would all be employees of  
14 Giant Eagle?

15 A. Yes.

16 Q. So if you could, let's focus first on  
17 your shift manager role at the HBC warehouse. I  
18 think you indicated you came into that role around  
19 1997. How long did you stay in that role?

20 A. Shift manager, up till 2000 and -- 2000.

21 Q. 2000. And then how about -- and then at  
22 that point you became the HR manager?

23 A. Correct.

24 Q. And how long did you stay in that role?

25 A. Till the end of 2003. And that's

1 inclusive of the Okay Grocery piece.

2 Q. So you were the HR manager at the HBC  
3 warehouse from 2000 until some point in 2003. And  
4 then around that time you were shifted over to  
5 Okay Grocery, and then were the HR manager there  
6 for, I think you said, about ten months?

7 A. Yes.

8 Q. So then we're up to roughly 2004  
9 timeframe?

10 A. Yes.

11 Q. And then at that point you became the  
12 operations manager at the HBC warehouse?

13 A. Yes.

14 Q. And how long did you remain in that  
15 role?

16 A. I remained in that role at HBC until  
17 2012. And then I assumed responsibilities as the  
18 operations manager for Fresh Foods Manufacturing,  
19 Freedom Road, and then returned to HBC in that  
20 capacity in 2015.

21 Q. And from 2012 to 2015, who assumed the  
22 role of operations manager at the HBC warehouse?

23 A. There were two persons who assumed that  
24 role. First was Annmarie Dougherty and Matt  
25 Rogos.

1 Q. And do you know how long Ms. Dougherty  
2 remained in that role?

3 A. I believe she was right around a year.

4 Q. And then Mr. Rogos would have been a  
5 couple years from '13 to '15, in that timeframe?

6 A. Yes.

7 Q. During the time that you were at Fresh  
8 Foods Manufacturing, did you maintain any contact  
9 with Mr. Rogos or Ms. Dougherty about what was  
10 going on at the HBC warehouse?

11 A. I did have contact primarily with  
12 Mr. Rogos for our Get Go distribution.

13 Q. What is Get Go?

14 A. Those are convenience stores owned and  
15 operated by Giant Eagle. And we were and are  
16 still doing selection, a portion of the selection  
17 at HBC and a portion at Fresh Foods.

18 So I did have to have contact with Matt on a  
19 regular basis to discuss Get Go.

20 Q. So in your role at Fresh Foods, a  
21 portion of that involved interacting with the HBC  
22 warehouse regarding, you know, for lack of a  
23 better word, supply or product that was coming  
24 from the warehouse to Fresh Foods?

25 A. For Get Go.

1 Q. Right. For Get Go. Got it.

2 Any other connection between yourself and  
3 Mr. Rogos regarding the HBC warehouse? And,  
4 again, just during that timeframe in 2013 to 2015.

5 A. Nothing specific, that I can recall.

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 Q. If you could, I want to focus in on the  
19 timeframe in 2009. At some point in 2009, did the  
20 HBC Service Company obtain a DEA license to become  
21 a distributor of controlled substances?

22 A. Yes.

23 Q. And at some point did the HBC Service  
24 warehouse begin acting as a distributor of  
25 Schedule III, IV, and V controlled substances?

1 A. Yes.

2 Q. Was that in or around November of 2009?

3 A. Yes.

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 subject is Pharmacy Controllable Substance  
2 Location.

3 Was that an email sent to you back in July of  
4 2009?

5 A. Yes.

6 Q. And was this during the timeframe when  
7 you, Mr. Carlson and others were getting prepared  
8 for HBC to become a distributor of controlled  
9 substances?

10 A. Yes.

11 Q. And if you could, just tell me who was  
12 Joseph Hurley.

13 A. Joseph Hurley, at that time, I believe  
14 he was the vice president of distribution. He's  
15 currently our senior vice president of  
16 distribution and logistics.

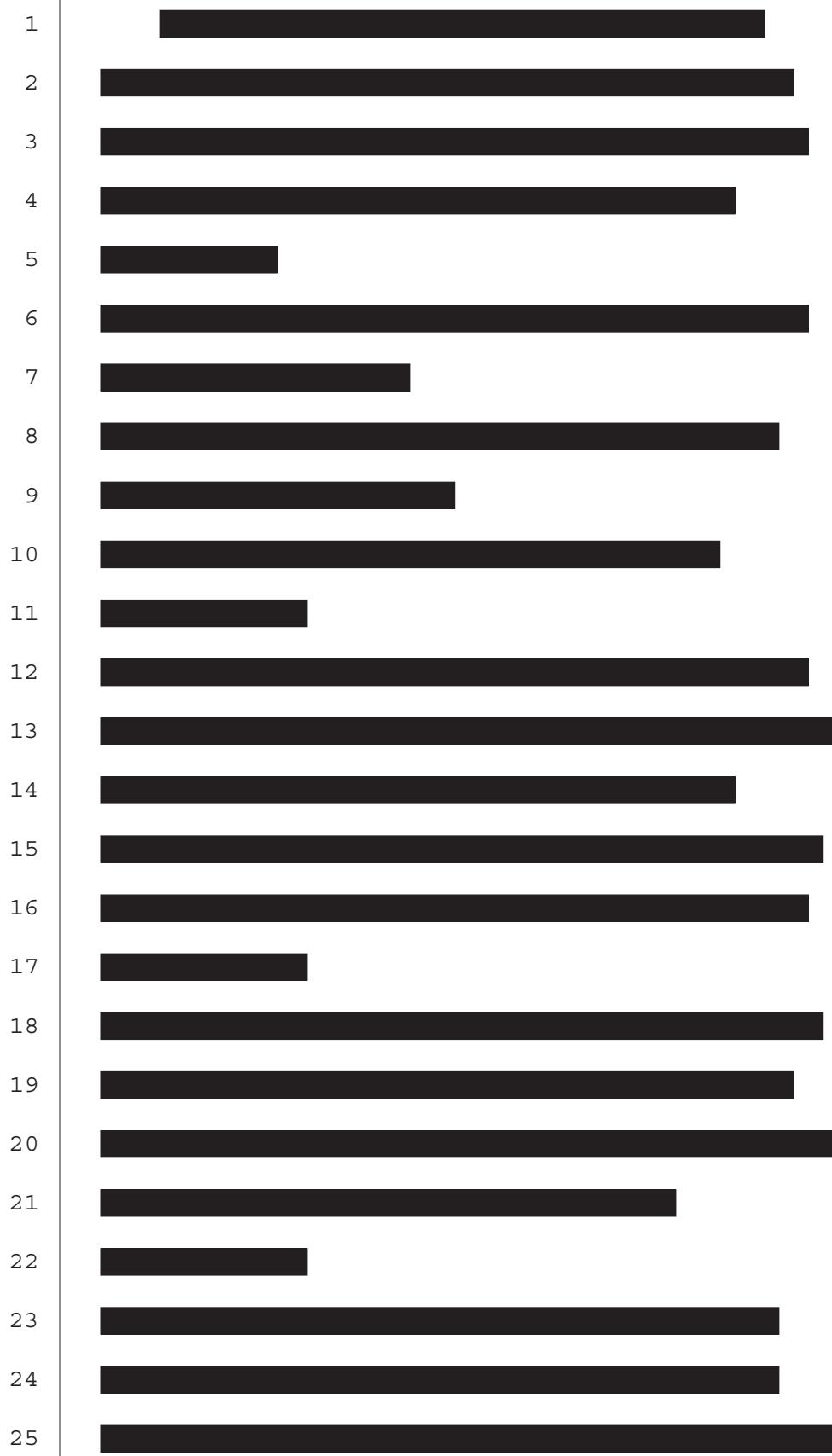
17 Q. How about Andy Zelaski?

18 A. Andy Zelaski was a manager who reported  
19 to me and was the manager that I put in charge of  
20 the pharmacy area.

21 Q. And then I think we know who Mr. Carlson  
22 is.

23 How about the -- it looks like there's three  
24 individuals who were copied. If you could, just  
25 tell me who those three individuals are.

21



22



23



24



25



26

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]

1 substances that was flowing through HBC from 2009  
2 to 2016?

3 MR. BARNES: Object to form.

4 Go ahead.

5 THE WITNESS: On an HBC report going to  
6 the DEA, I would agree on the accuracy.

7 BY MR. HUDSON:

8 Q. From a policies and procedures  
9 perspective, who would be responsible for making  
10 sure that the HBC warehouse was meeting all the  
11 requirements of the Controlled Substances Act once  
12 HBC became a distributor of controlled substances  
13 in 2009?

14 A. It would have been a joint  
15 responsibility between the facility itself and  
16 Greg Carlson's group.

17 Q. And what responsibilities would lie with  
18 the facility?

19 A. The operational responsibilities of  
20 setup, selection and shipping.

21 Q. And what responsibilities would fall in  
22 Greg Carlson's group?

23 A. His group was primarily around the  
24 actual registration, purchasing from the vendors,  
25 and scheduling delivery into HBC.

1           Q.    So if we assume Giant Eagle is on, I  
2 guess, what I think of as the buy side, so they're  
3 buying controlled substances from certain  
4 manufacturers; right?

5           A.    Okay.

6           Q.    And that would be the part that  
7 Mr. Carlson and his group would be focused on,  
8 would be the purchasing and then the shipping into  
9 the HBC warehouse?

10          A.    Yes.

11          Q.    And then the second piece of that would  
12 obviously be then the inventory and the handling  
13 at the warehouse and then the shipping out from  
14 the warehouse to the Giant Eagle retail  
15 pharmacies; right?

16          A.    Yes.

17          Q.    And so am I understanding you right that  
18 the piece of handling the inventory at the  
19 facility and then shipping to the retail  
20 pharmacies, those responsibilities would lie more  
21 on the facility?

22          A.    Yes.

23          Q.    How about steps taken to make sure that  
24 the facility was complying with the requirements  
25 of the Controlled Substances Act; who would be

1 responsible for that particular piece?

2 MR. BARNES: Objection. Asked and  
3 answered already. He already said it was a joint  
4 responsibility.

5 BY MR. HUDSON:

6 Q. You can answer.

7 A. It was a joint responsibility.

8 Q. So my question now, because your last  
9 answer, I think it would be fair to say, and  
10 correct me if I'm wrong, but you were focused more  
11 on operationally the flow of the product and who  
12 was responsible for it coming in and out of the  
13 facility.

14 I guess what I'm more focused on is the  
15 policies and procedures that would be focused on  
16 complying with the Controlled Substances Act.

17 Would you say that that would be -- your  
18 answer would be the same, that for purchases of  
19 the product coming into the facility, that would  
20 be Mr. Carlson's group, but then what happens at  
21 the facility and then the shipping to the retail  
22 pharmacies would be the responsibility of the  
23 facility itself?

24 A. I would still say --

25 MR. BARNES: I'm going to object to

1 form. That's kind of a really long question.

2 Do you understand the question?

3 THE WITNESS: I believe so, but if you  
4 could break it down.

5 BY MR. HUDSON:

6 Q. Sure. Well, you've testified -- and  
7 your counsel made the point that it was asked and  
8 answered, so you've already apparently answered  
9 this, so I was trying to recap what your previous  
10 answer was.

11 Is your answer the same from a compliance  
12 standpoint?

13 A. Yes. There was joint responsibility.

14 Q. And those joint responsibilities, would  
15 they -- would they lie and fall the same way that  
16 they would in terms of operationally who was  
17 responsible for the product?

18 A. I would say yes, it was.

19 Q. So once the controlled substances, the  
20 Schedule III, IV, and V controlled substances were  
21 shipped into the facility and they were physically  
22 located at the facility, it would be your  
23 testimony that the facility, yourself and  
24 the people underneath you, were responsible for  
25 coming up with policies and procedures at the

1 facility to comply with the Controlled Substances  
2 Act?

3 MR. BARNES: Object to form.

4 THE WITNESS: I'll say no. We would  
5 have a hand in devising or working with Greg and  
6 his group on making sure or ensuring that we were  
7 following the proper process and procedures.

8 BY MR. HUDSON:

9 Q. Well, that's what I'm trying to  
10 understand. You've testified that from a  
11 compliance perspective, it was a joint effort  
12 between the facility and Mr. Carlson's group.

13 And I guess what I'm trying to figure out is  
14 within that joint responsibility, were there  
15 certain responsibilities that fell on the facility  
16 versus Mr. Carlson's group?

17 How do I figure out who was responsible for  
18 what?

19 A. Yes. So an example would be cameras and  
20 the loss prevention piece that fell to Andy  
21 Zelaski and myself, primarily Andy, and working in  
22 connection with the DEA on what are either best  
23 practices or what was regulatory and needed.

24 Again, that was just an example.

25 Q. Sure. And if you could, just walk

1 through what you believed to be the obligations  
2 that arose in 2009 when that facility became a  
3 distributor of controlled substances.

4 And just, if you could, describe what you  
5 recall about the steps taken by your team or  
6 Mr. Carlson's team to put policies, procedures or  
7 things in place to comply with the Controlled  
8 Substances Act.

9 A. So we had -- we knew to bring in  
10 controlled substances, we had to have a specific  
11 area. And it had to meet DEA requirements of the  
12 gauge of steel in the wire for the cage, whether  
13 there was a roof on it or not, or ceiling I guess  
14 I should say. It had to be bolted down to the  
15 floor. We had to ensure that the seams were  
16 tack-welded and not just bolted.

17 And our Sonitrol system, we had to work with  
18 our loss prevention to set that up, ensuring that  
19 background checks were covered, drug and alcohol  
20 screens were covered.

21 Those are all the things that -- again,  
22 working jointly with Greg Carlson and the DEA to  
23 get that information to know what direction we  
24 should go to properly set up this facility.

25 Q. Did you personally have any

1       communications or discussions with the DEA at this  
2       time in 2009 when the facility was being set up?

3           A.    I would have.

4           Q.    And who did you speak with at the DEA?

5           A.    I don't fully remember his last name.

6       His first name was Lou. I think it started with a

7       C.    It's been quite a few years since.

8           Q.    Sure. No, I understand. And I'm just  
9       trying to get your best testimony on the record.

10          How many times would you say you spoke to  
11       Lou C at the DEA or of the DEA?

12          A.    I would say leading up to opening or  
13       starting the operation, maybe two times, maybe  
14       three. I can't speak for how many times he may  
15       have spoke with anyone in corporate.

16          Q.    Were those discussions focused on the  
17       security requirements, making sure that the  
18       facility was meeting the DEA security  
19       requirements?

20          A.    Yes.

21          Q.    Do you know if you reached out to him or  
22       if he reached out to you?

23          A.    I can't. I don't remember.

24          Q.    Anything else you can think of that the  
25       HBC warehouse did as part of its process of

1 becoming a distributor of controlled substances?

2 A. Not top of mind, no.

3 Q. Is it fair to say that the measures or  
4 the steps or the plan that you implemented for the  
5 warehouse were focused on the security  
6 requirements of the Controlled Substances Act?

7 A. It was one of our focuses.

8 Q. Well, so far you've talked about  
9 security cameras being installed; right?

10 A. Yes.

11 Q. And then you talked about creating a  
12 specific area in the warehouse for controlled  
13 substances that was enclosed with steel and bolted  
14 down to make sure that it was a secured area;  
15 right?

16 A. Yes.

17 Q. And then you talked about background  
18 checks for employees who would be dealing with the  
19 controlled substances; right?

20 A. Yes.

21 Q. So can we agree that all of those were  
22 steps taken to address either security or theft  
23 controls -- I'm sorry -- security or theft  
24 concerns?

25 A. Yes.

1           Q.    Anything else you can think of -- I just  
2 want to make sure that I've exhausted this  
3 topic -- that either your group or Mr. Carlson's  
4 group did to prepare the warehouse to become a  
5 distributor of controlled substances?

6           A.    One is, as stated in one of the  
7 exhibits, was just inventory controls.

8           Q.    And tell me what steps HBC did to  
9 address inventory controls.

10          A.    Well, we implemented a more robust  
11 counting system than we had out in, I'll say, the  
12 general HBC warehouse.

13           Example, and I don't know that I'll get the  
14 numbers exactly right, but for the narcotics cage  
15 as we refer to it, we would count that prior to  
16 anybody selecting every day. We would count it  
17 after -- as the team members were leaving to go to  
18 break, the selectors.

19           We would count it before each route left.  
20 And then that was for the pick slots. And then we  
21 would count the reserves once a month unless we  
22 saw any discrepancies in our pick location.

23          Q.    So the inventory controls that were put  
24 in place involved more rigorous and more regular  
25 counting of the inventory to make sure that the

1 inventory that was supposed to be there was, in  
2 fact, there?

3 A. Yes.

4 Q. Anything else that you can think of in  
5 terms of controls or steps taken at the HBC  
6 warehouse to become a distributor of controlled  
7 substances?

8 A. As we talked, our security, we had a fob  
9 system around the entire building. Like we had a  
10 specific fob system, Sonitrol system.

11 We regulated who had access to the room  
12 itself. And then we had even more limited access  
13 to the narcotics cage itself along with locks, and  
14 the cage itself had its own sensors and alarm  
15 system specific to the cage.

16 Q. Anything else you can think of?

17 A. Not at this time.

18 Q. I'm going to switch gears a little bit  
19 and hand you what I've marked as Exhibits 3 and 4.

20 (HBC-Durr Exhibits 3 - 4 were marked.)

21 BY MR. HUDSON:

22 Q. Mr. Durr, I'll represent to you that  
23 Exhibit 3 is some responses to questions that the  
24 plaintiffs asked HBC.

25 And I'm going to turn to page 8 of these

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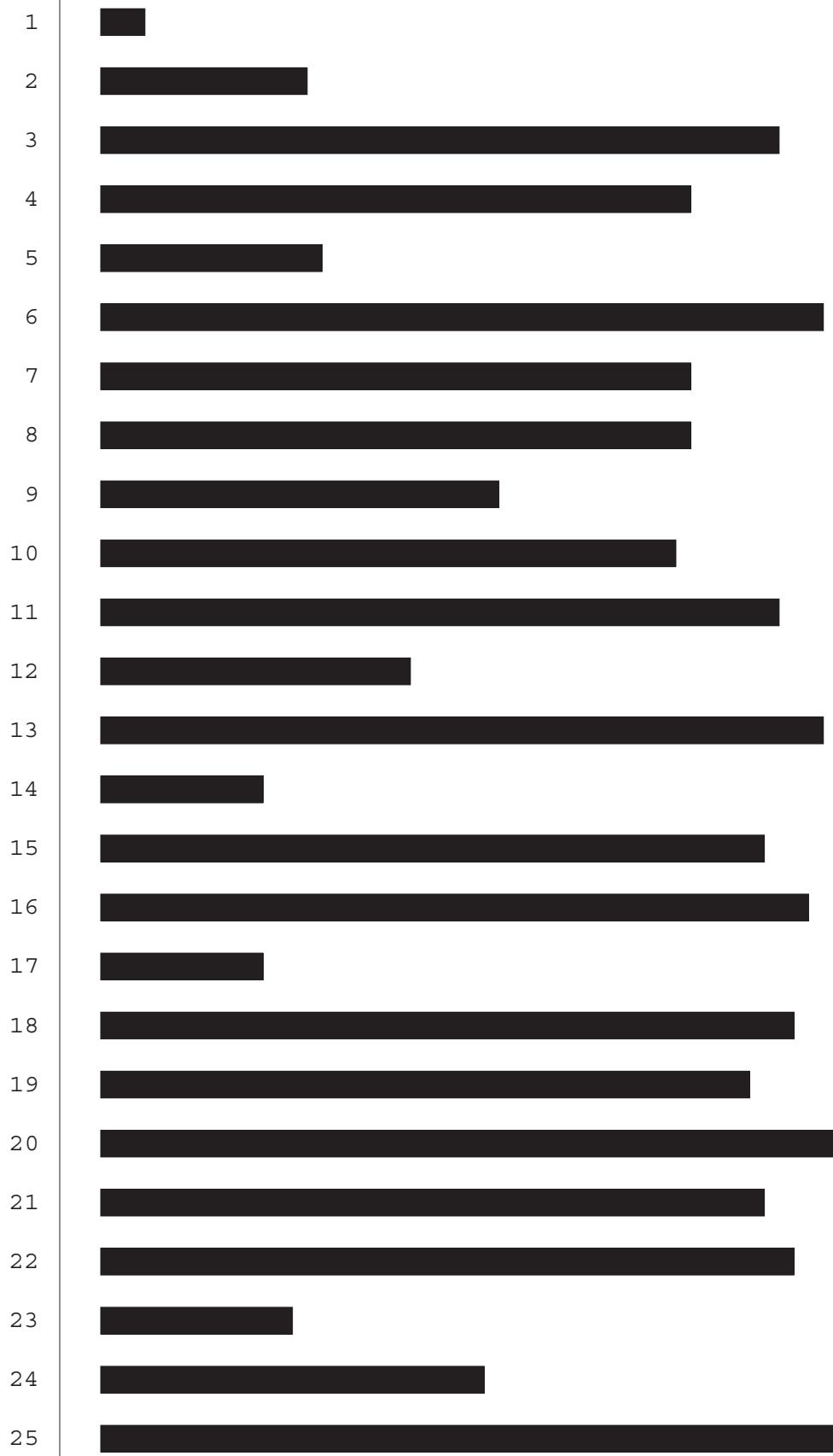
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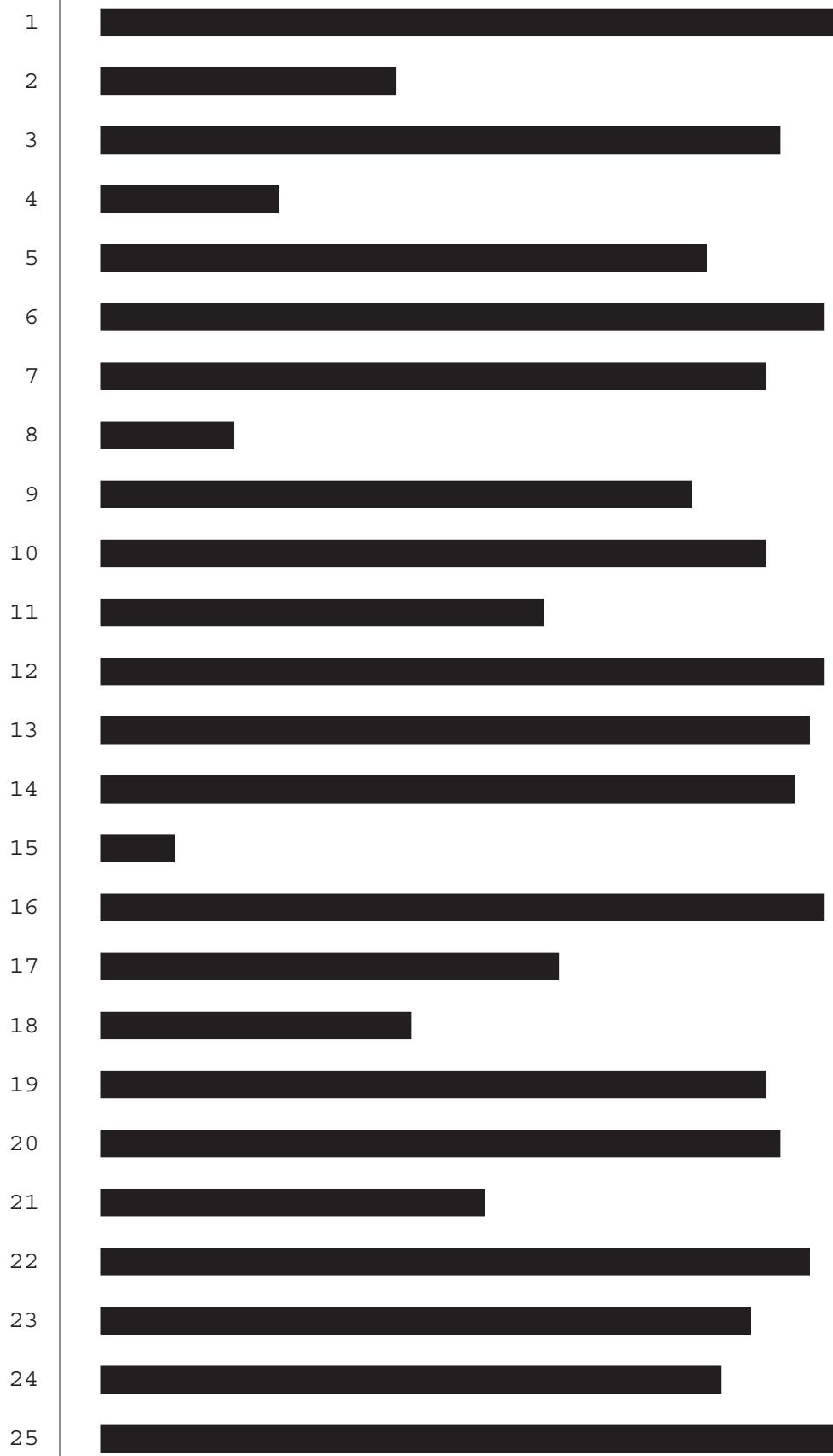
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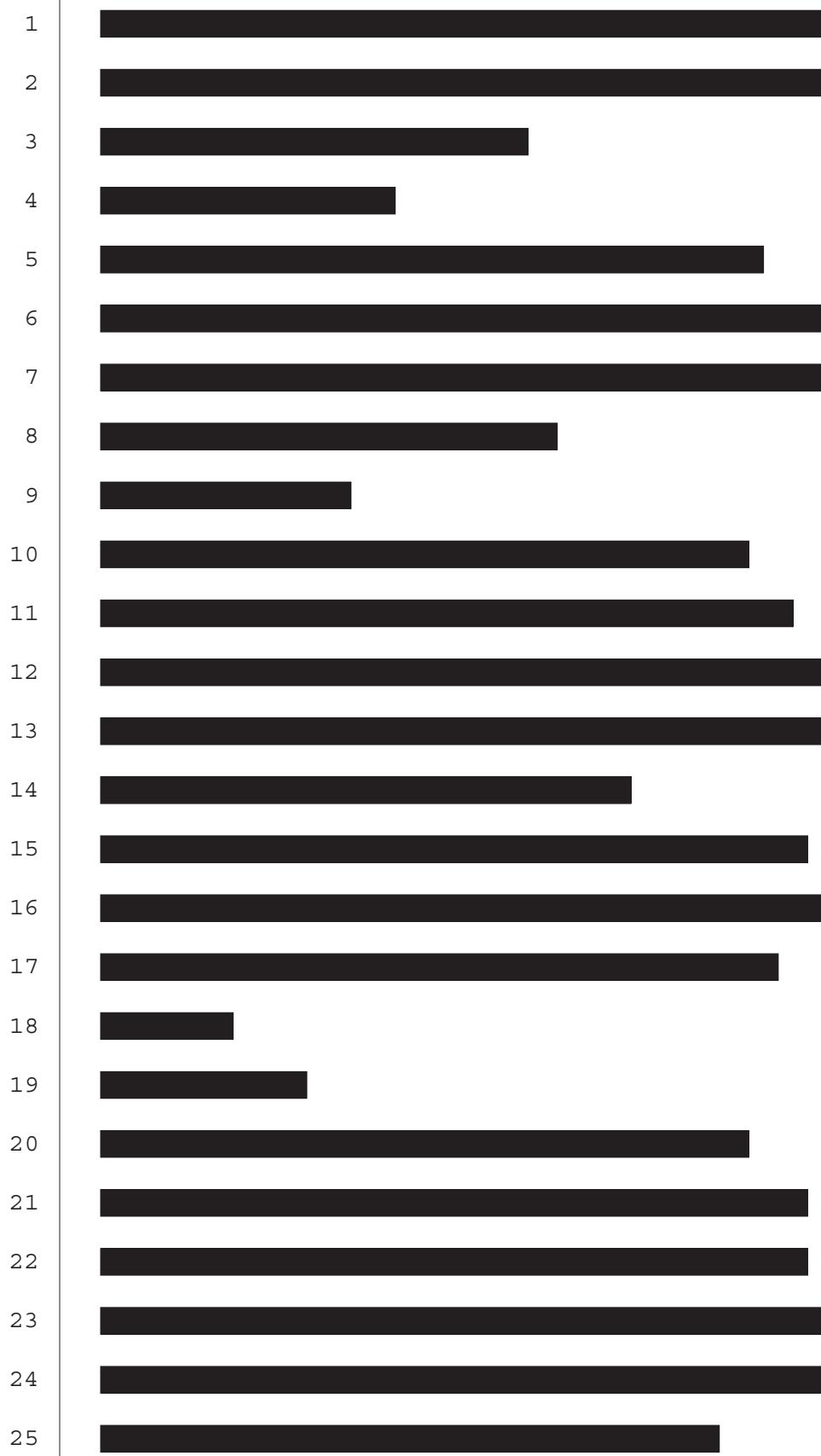
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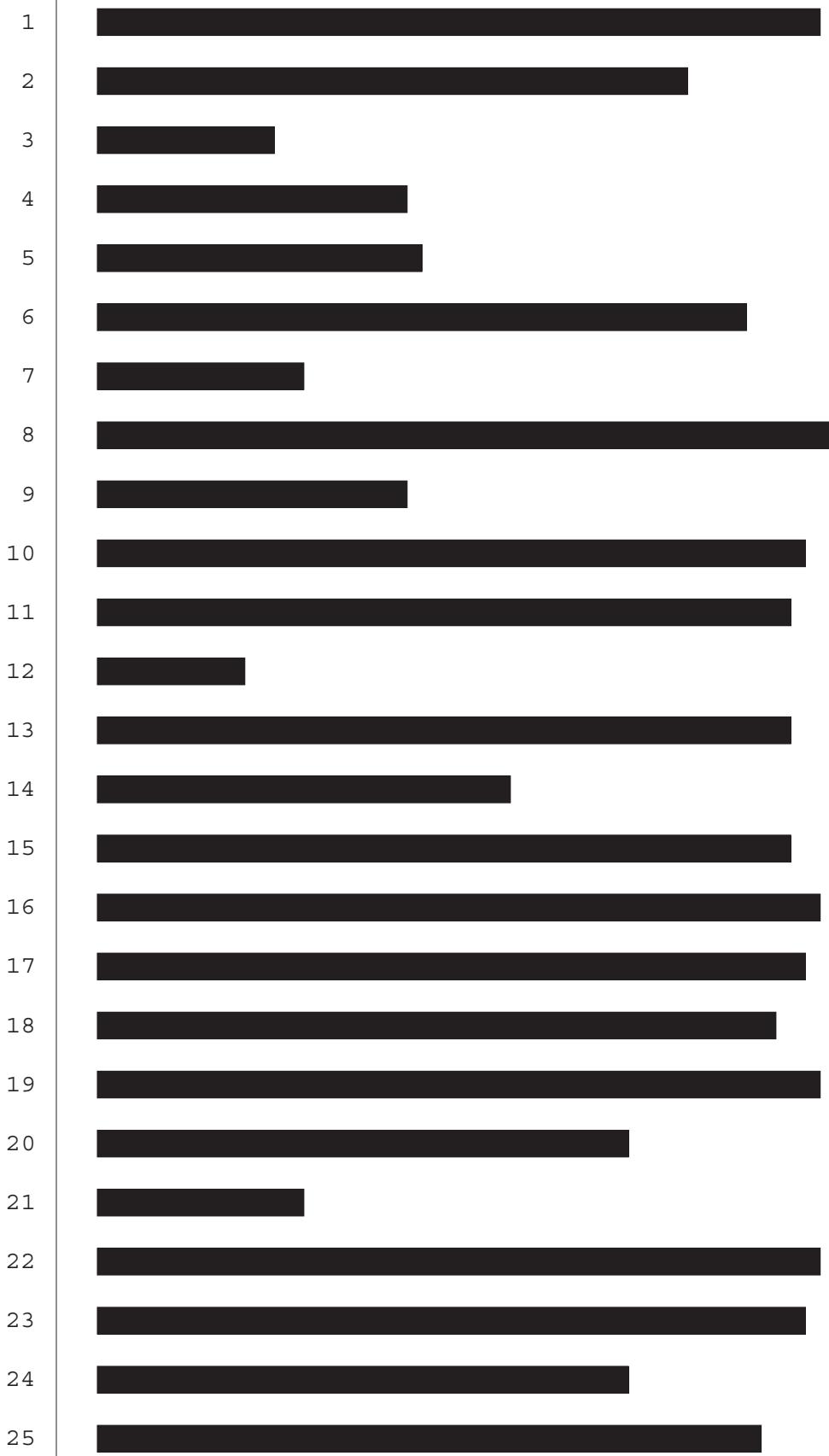
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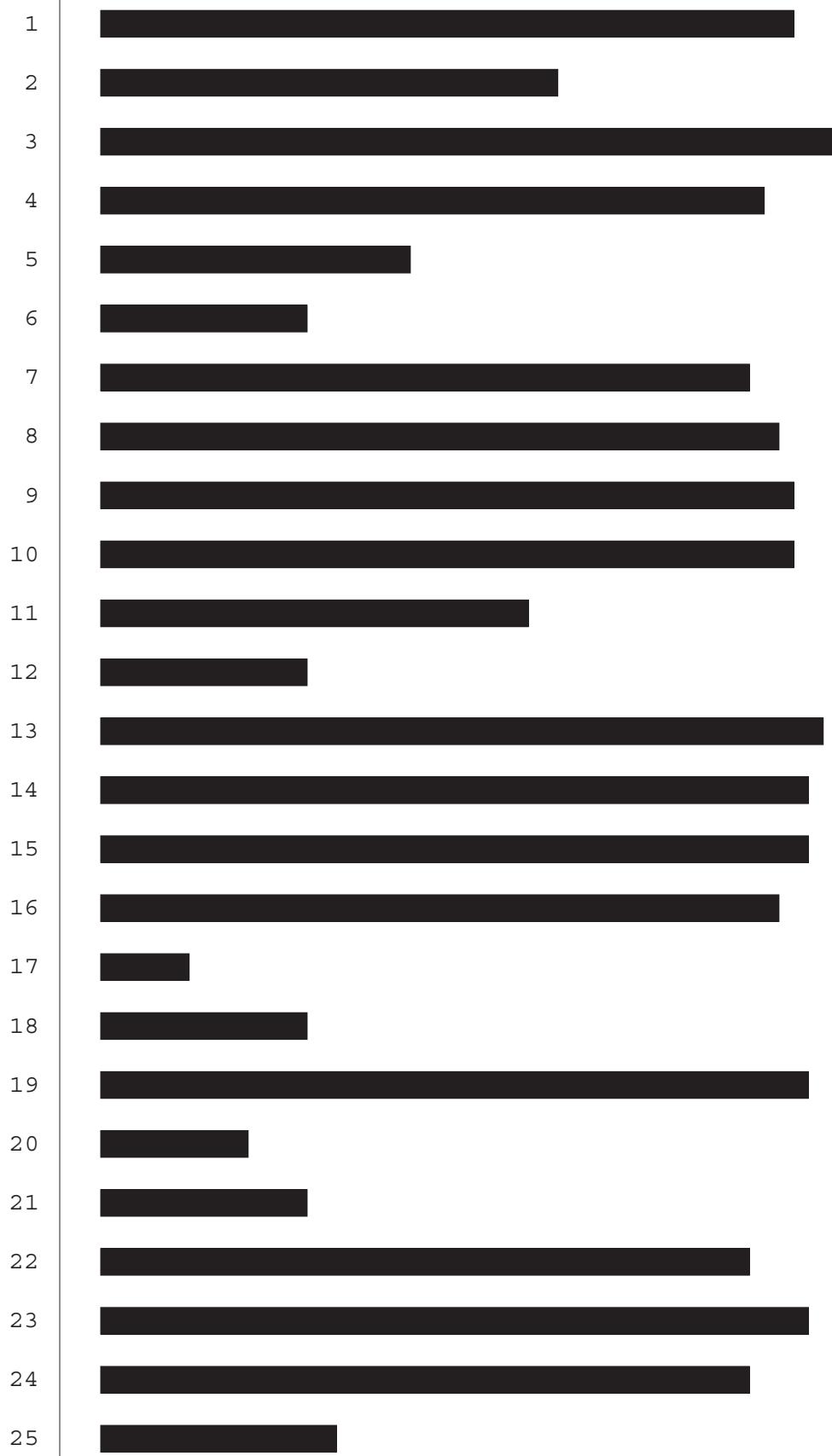
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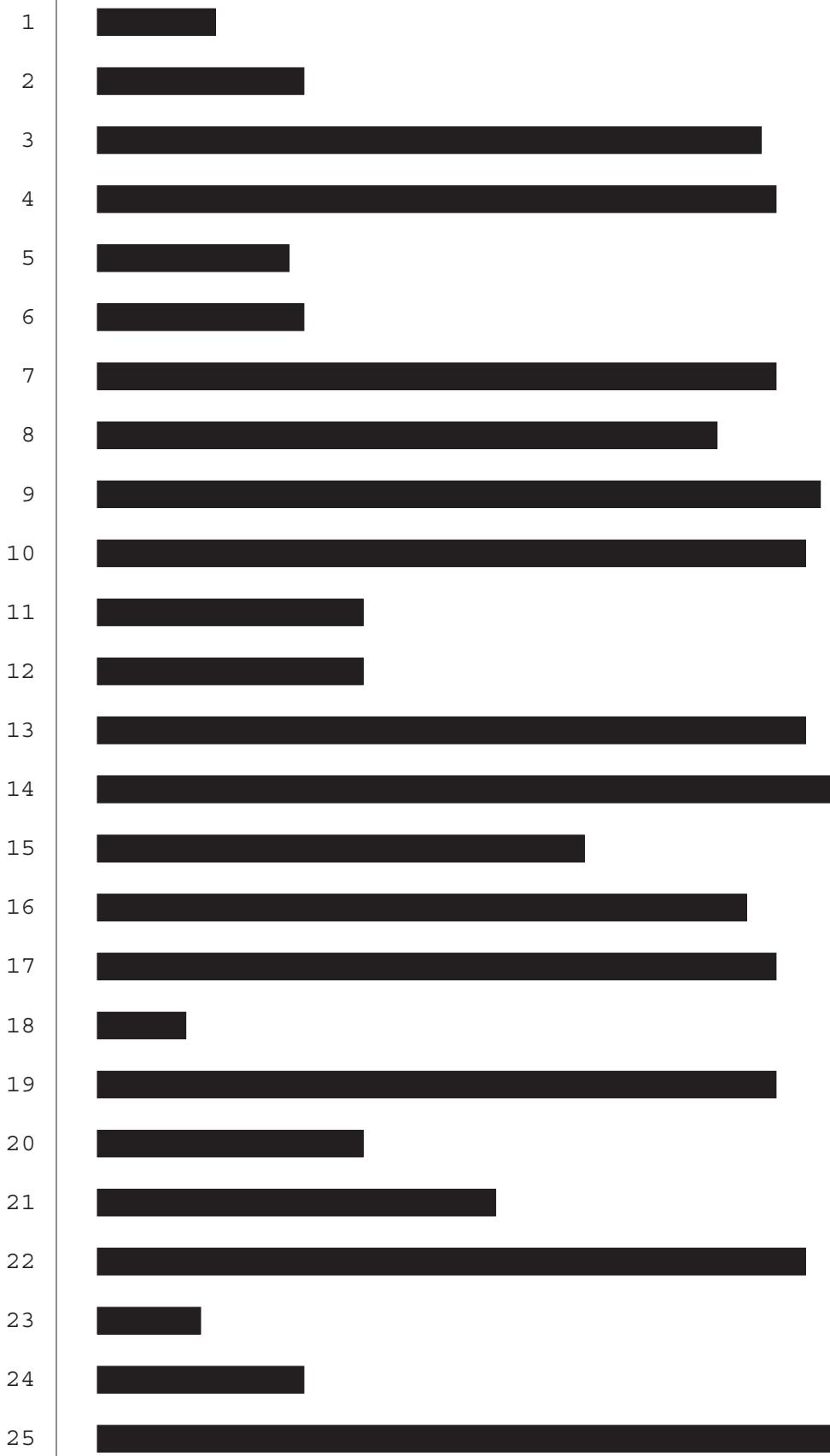
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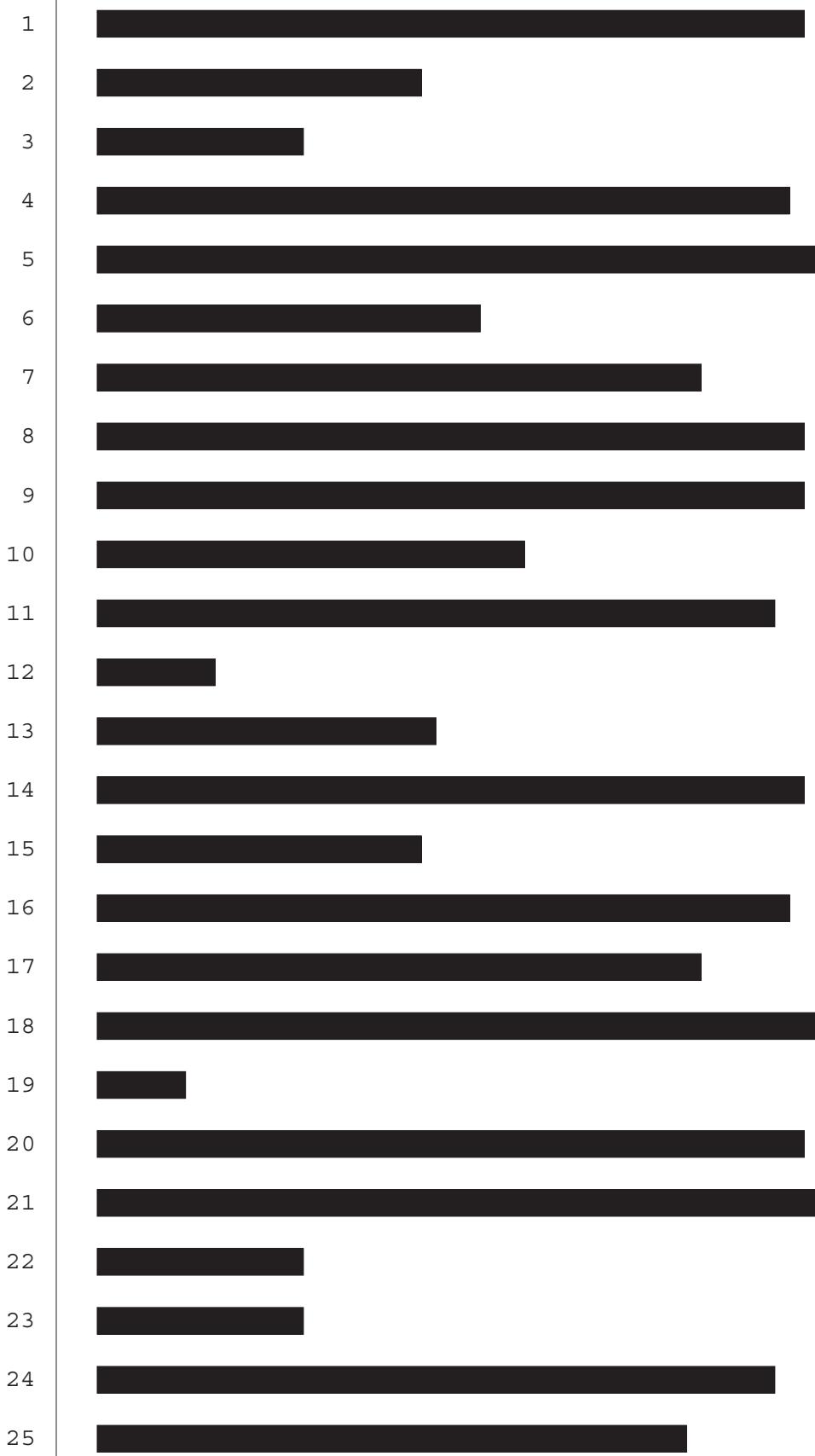
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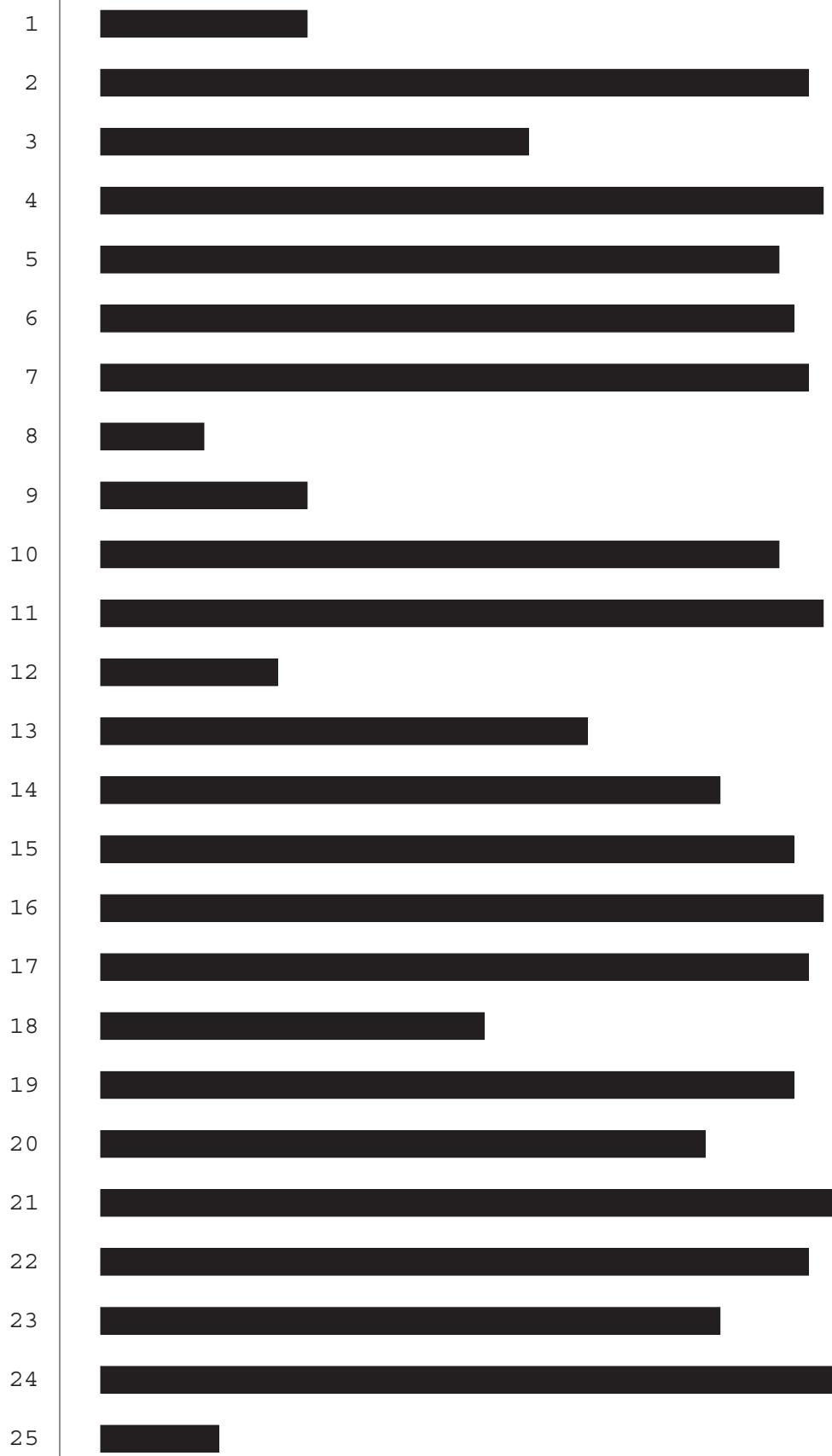
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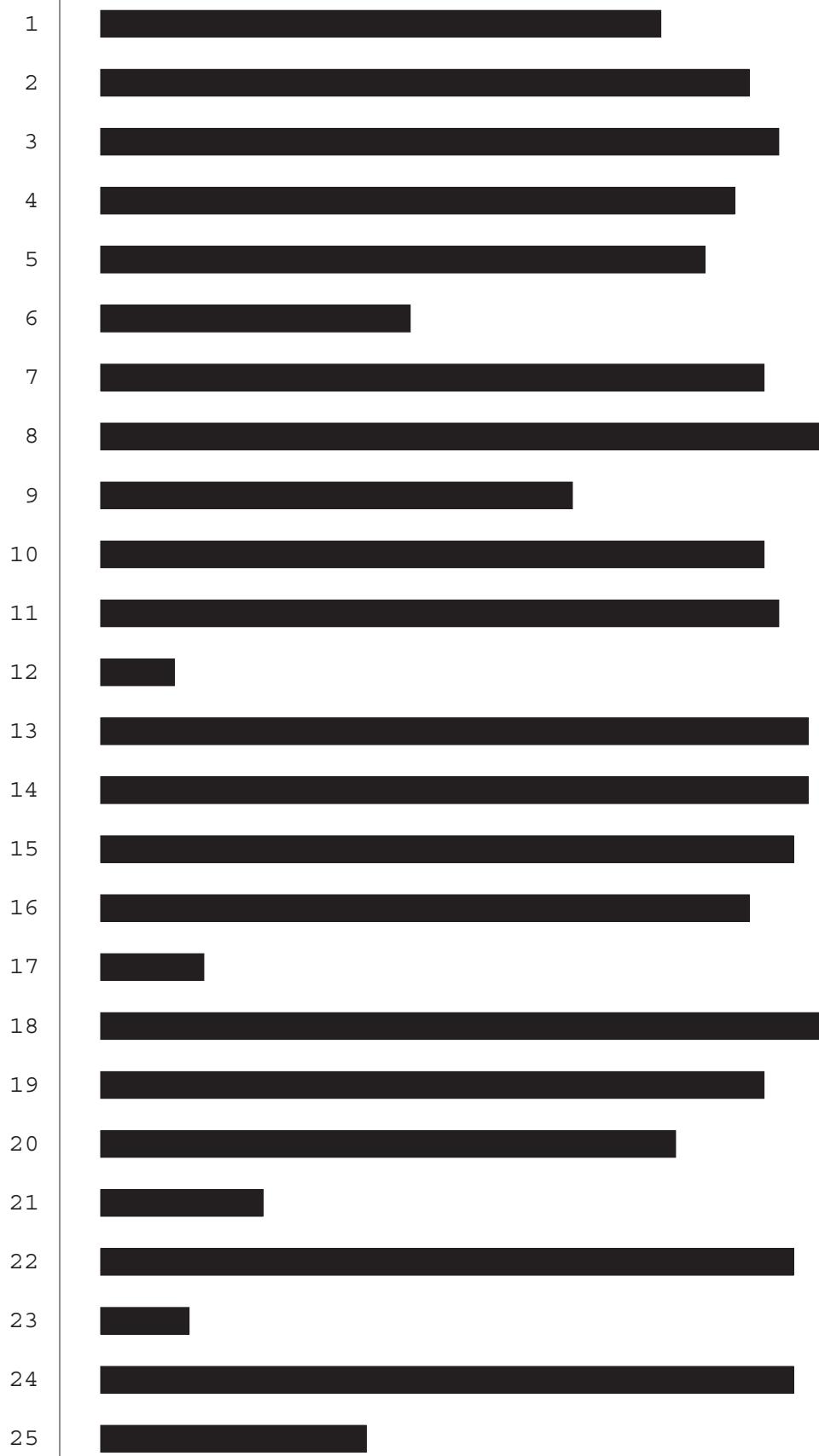
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1           So you were physically located at the  
2 warehouse in Washington, Pennsylvania; correct?

3           A.     Yes.

4           Q.     And then Mr. Millward and the compliance  
5 group was located at Giant Eagle's corporate  
6 offices here in the Pittsburgh area; right?

7           A.     Yes.

8           Q.     And how many miles apart are those?

9           A.     I don't know. Figure 30 --

10          Q.     Okay.

11          A.     If that. 25. I don't know.

12          Q.     But there wasn't anyone in the  
13 compliance group that was located at the warehouse  
14 in Washington, Pennsylvania; correct?

15          A.     Physically located, no. They have and  
16 have always had systems and visibility through the  
17 systems.

18          Q.     Okay.

19          A.     And at any time, any one of them could  
20 come to the facility.

21          Q.     And that's what I'm getting at. My  
22 question is: Between 2009 and 2016, are you aware  
23 of any initiatives by the Giant Eagle corporate  
24 office using its systems to monitor suspicious  
25 orders of controlled substances?

1           A. I'm not aware of any from the corporate.  
2   That doesn't mean there weren't any. I'm just not  
3   aware of them.

4           Q. Would it be fair to say then that  
5   between 2009 and 2016, there was no coordination  
6   between yourself and the Giant Eagle corporate  
7   office in terms of using Giant Eagle systems to  
8   monitor suspicious orders of controlled  
9   substances?

10          A. That would not be fair. We -- "we"  
11   being my team, Andy Zelaski and Christy Hart --  
12   had daily communications with the corporate team  
13   via phone and/or through our systems monitoring  
14   inventory and communicating inbound/outbound  
15   shipments.

16          So we believe we had a system in place.

17          Q. Yourself, Mr. Zelaski and Erin Hart?

18          A. Christy Hart.

19          Q. I'm sorry. Christy Hart.

20          Was there anyone else at the HBC facility who  
21   was involved in communicating with the compliance  
22   group?

23          A. Those were the primaries. On a day off  
24   we had a backup for Christy. It was typically  
25   Dominique McFann. But Christy and Andy were the

1 primaries.

2 Q. And when did these communications begin?

3 A. From the moment we opened operations.

4 Q. From the moment that you began acting as  
5 a distributor of controlled substances?

6 A. Yes.

7 Q. So from November of 2009 until the  
8 present?

9 A. I would say probably even before that,  
10 as you've seen, as we were setting up to go into  
11 distribution.

12 Q. And I guess what I'm focused on is  
13 suspicious order monitoring of controlled  
14 substances shipments that were going in and out of  
15 the warehouse.

16 Is that your understanding of suspicious  
17 order monitoring?

18 A. Yes.

19 Q. We've looked at -- if we go back to  
20 Exhibits 5 and 6 -- well, actually, and Exhibit 4  
21 as well, can we agree that HBC did not have any  
22 written policies or procedures in effect at least  
23 prior to August 1, 2014?

24 A. No. We can't agree on that.

25 Q. Are you aware of written policies or

1 procedures that existed prior to August 1, 2014  
2 relating to monitoring of suspicious orders of  
3 controlled substances?

4 A. I would say we had a system in place as  
5 it related to suspicious order monitoring.

6 Q. Okay. And my question though is more  
7 specific. And we'll get there, and I'll ask you  
8 more questions about what that program or system  
9 looked like.

10 I guess what I'm focused on right now are  
11 just written policies or procedures. Okay?

12 A. I believe we had those policies. Where  
13 they are or what happened to them through time, I  
14 can't answer that.

15 Q. You believe that the HBC warehouse had  
16 suspicious order monitoring policies or procedures  
17 that existed prior to August 1, 2014?

18 A. I can't say that we had a policy  
19 specifically as you're stating it, but I believe  
20 we had a system in place and processes and  
21 procedures.

22 Q. Did you have those in writing?

23 A. I would say that we did, but I don't  
24 have them.

25 Q. When were those policies or procedures

1 put into writing?

2 A. I would say in 2009, as we were working  
3 to set up the facility.

4 Q. So I asked you previously questions  
5 about all the steps that HBC took to prepare the  
6 warehouse to become a distributor of controlled  
7 substances.

8 Do you remember that?

9 A. I do.

10 Q. And I asked you, I think, three or four  
11 times because I wanted to try, as best I could, to  
12 get an exhaustive list.

13 You talked about securities and cameras. You  
14 talked about the fob that had limited access. You  
15 talked about controlling the specific area with a  
16 cage of steel that's bolted down. You talked  
17 about background checks. And you talked about  
18 inventory controls that were put in place to make  
19 the counting more robust and more regular at the  
20 facility, specifically for controlled substances.

21 Do you remember that testimony?

22 A. I do.

23 Q. And at that time, when I asked you those  
24 questions, you didn't identify suspicious order  
25 monitoring of controlled substances as one of the

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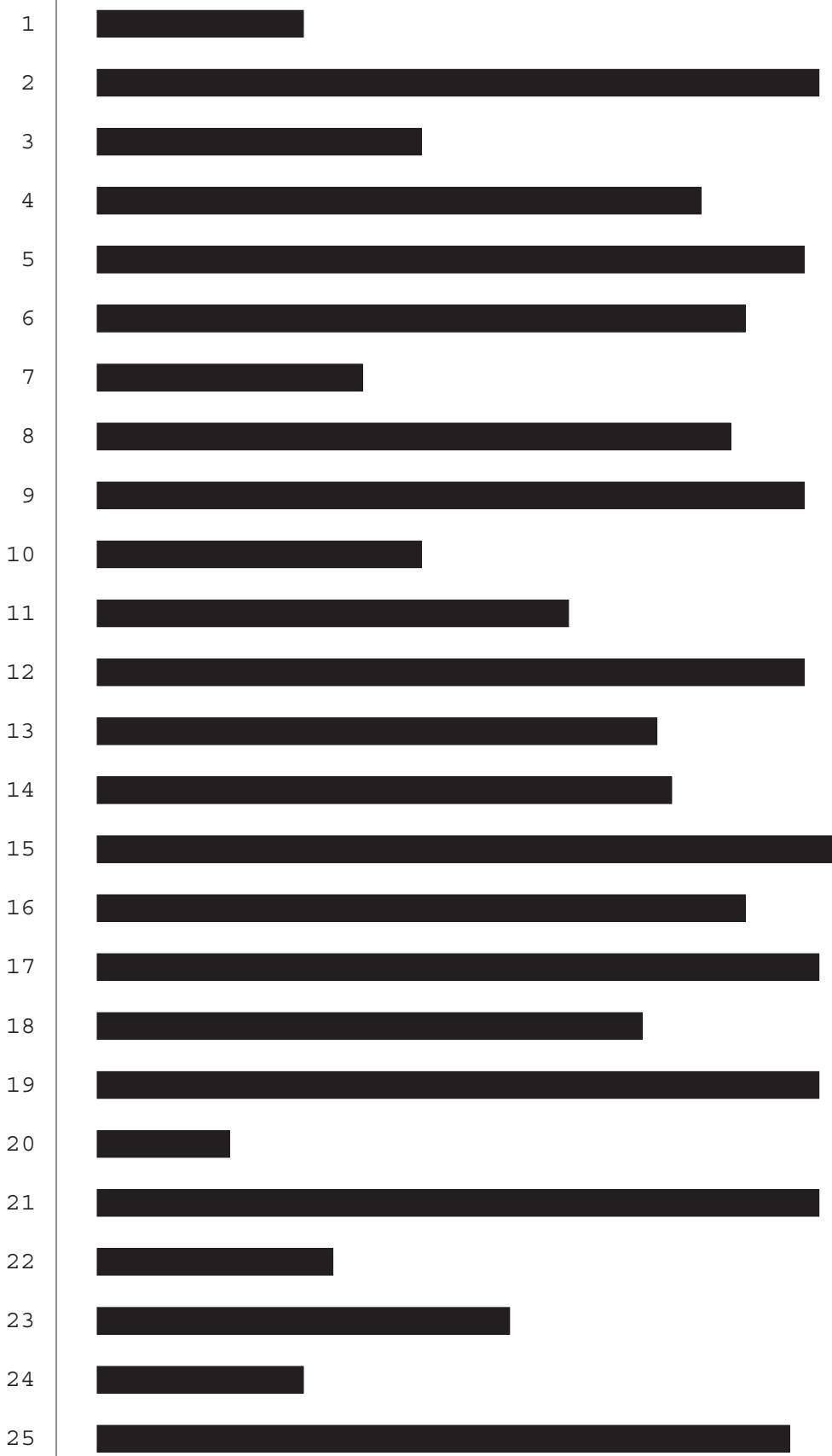
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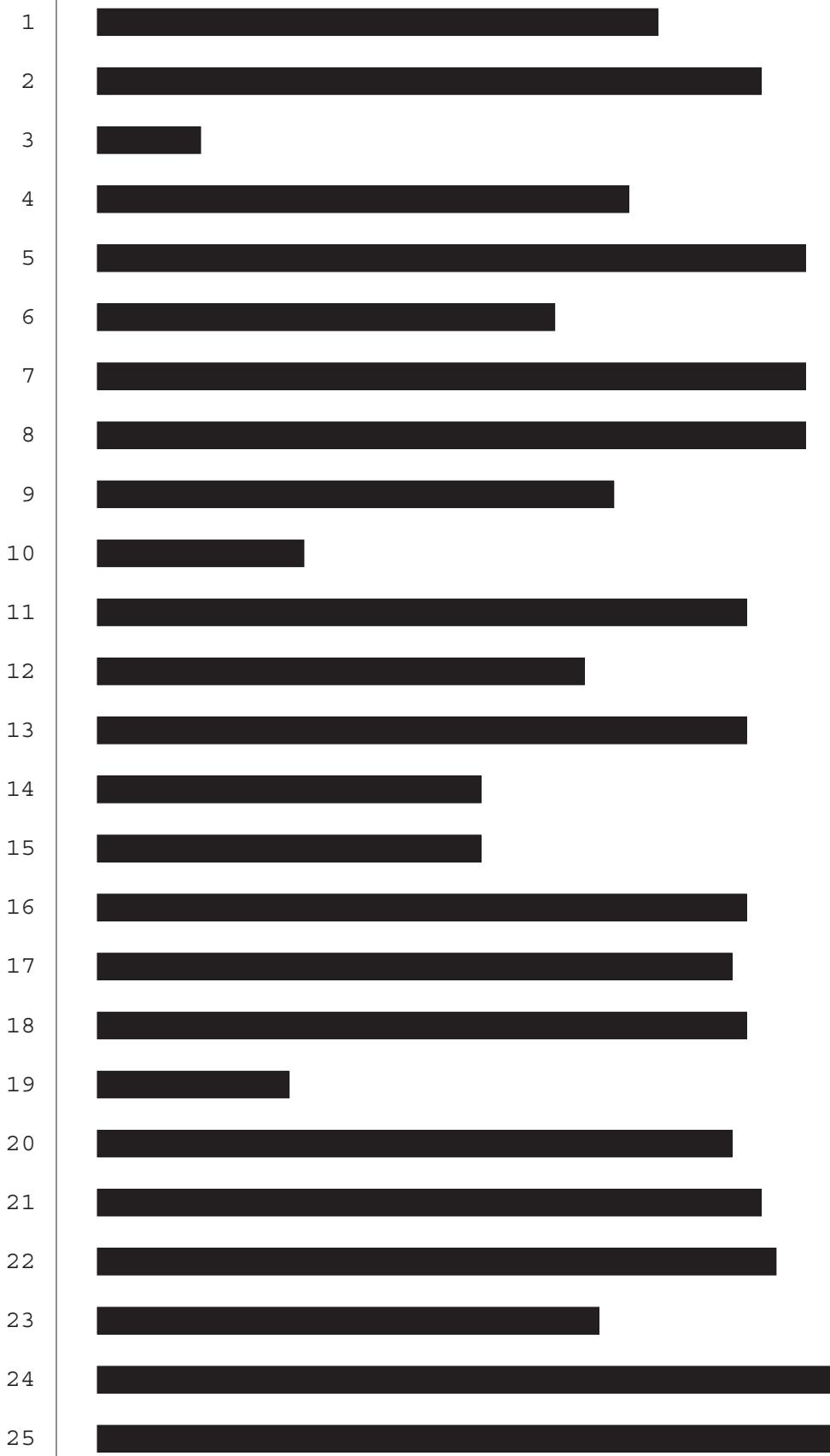
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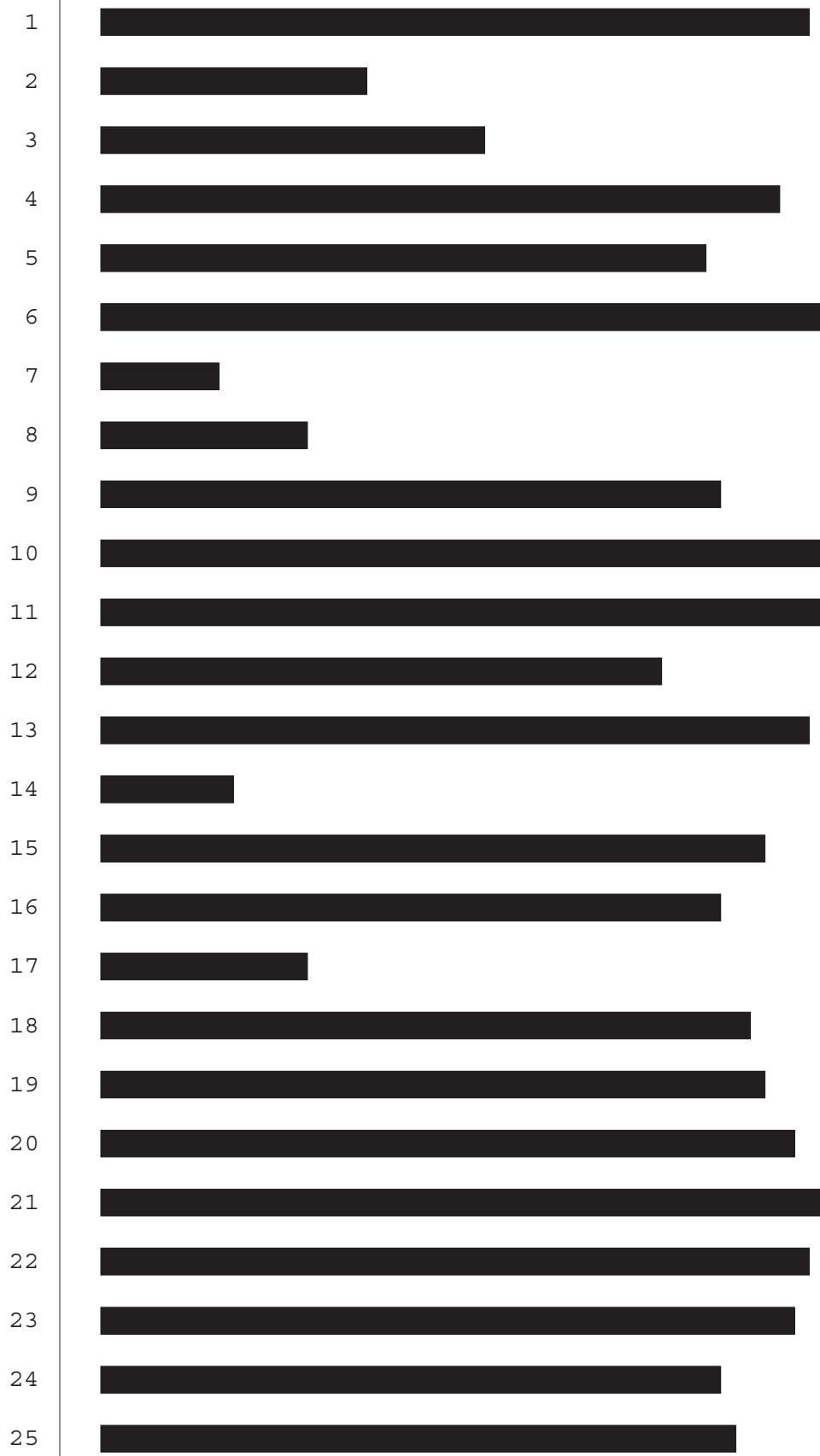
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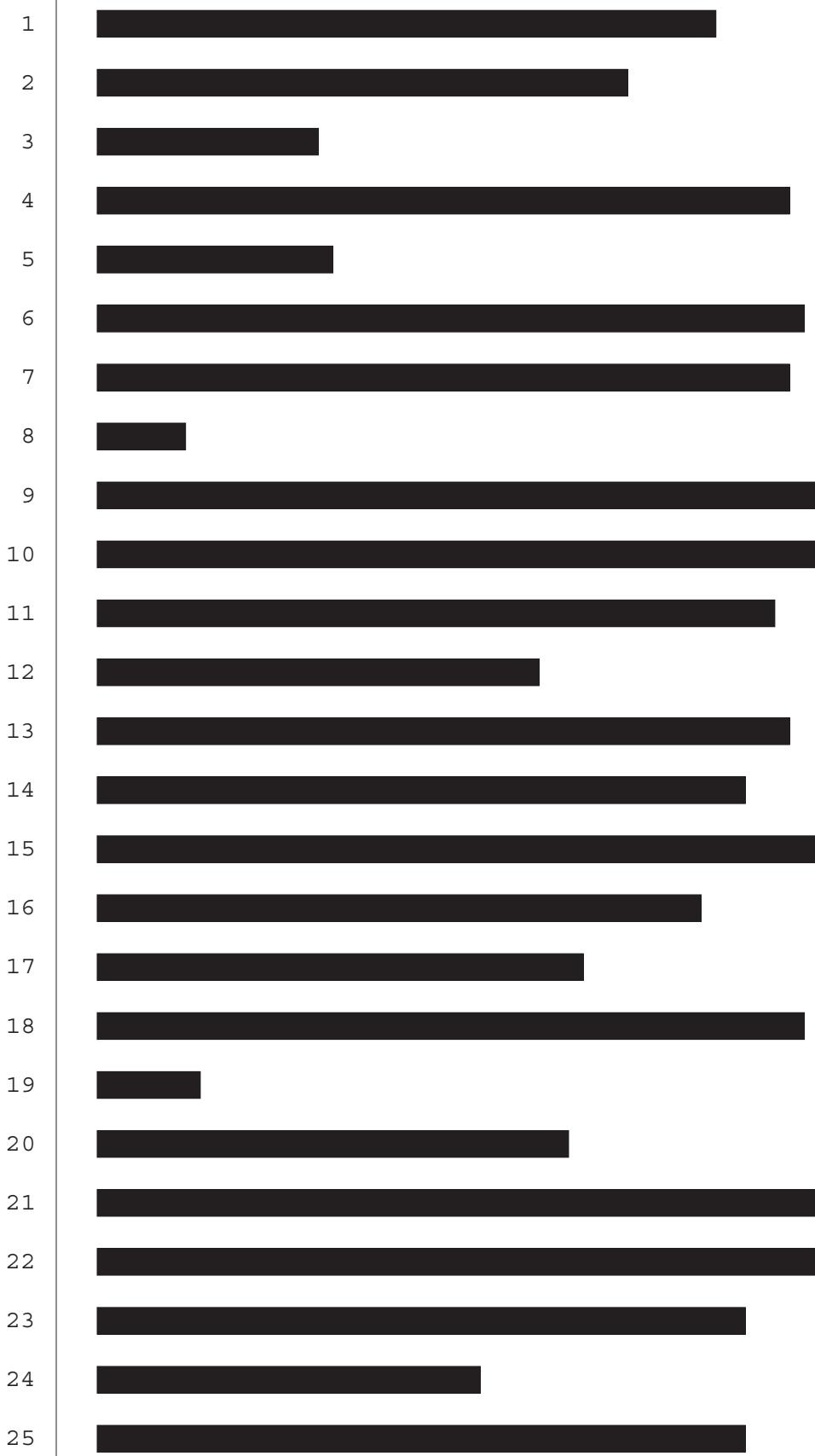
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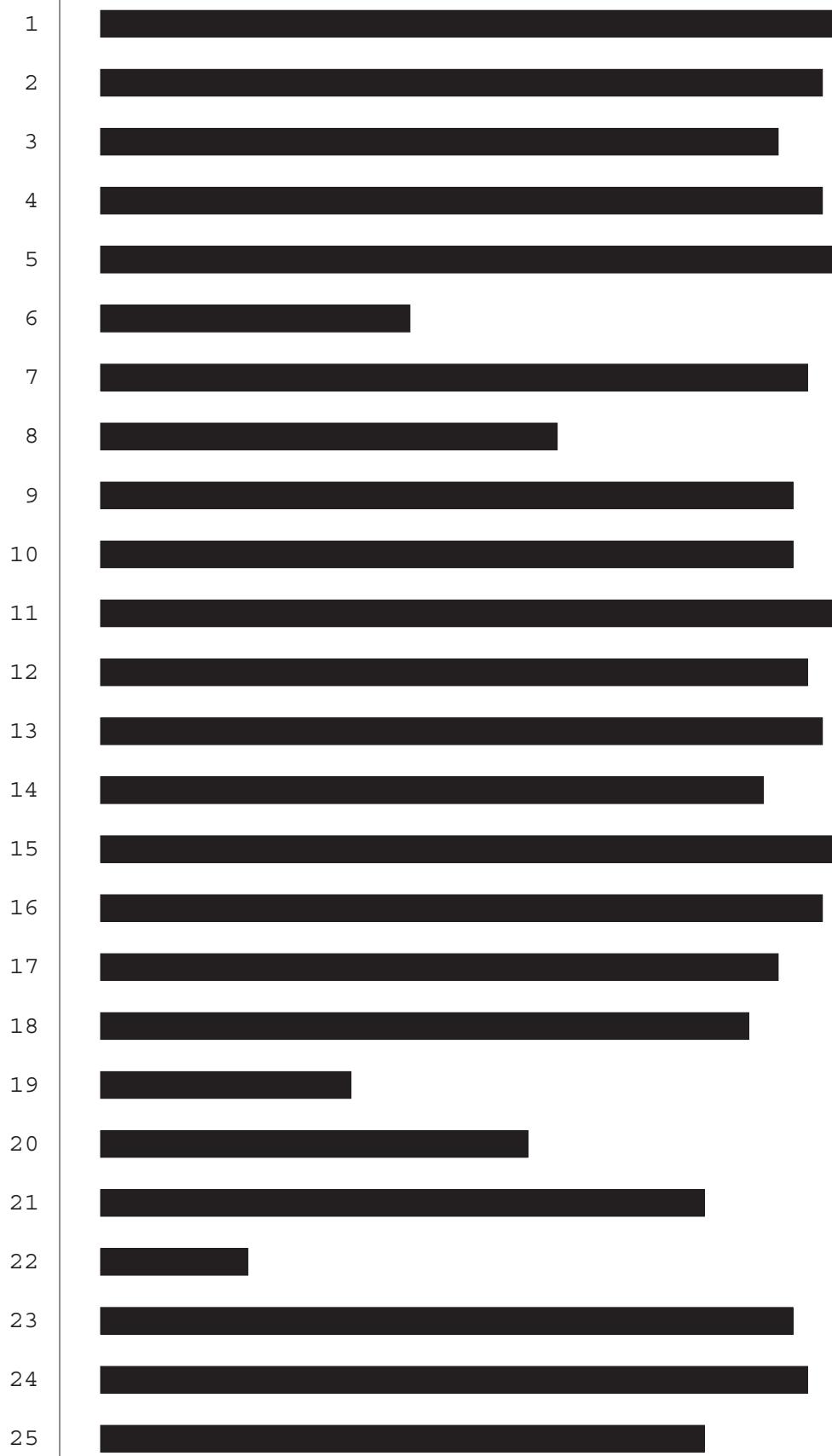
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1 recall which one. But the stores that were  
2 putting their orders in would come through DCOPS,  
3 and then would interface with Manhattan.  
4 Manhattan was the warehouse management system.

5 Q. Got it. Thank you for that  
6 clarification.

7 So DCOPS or BICEPS was a computer system that  
8 existed at the 200 or so retail pharmacies where  
9 they would enter the orders. And then Manhattan  
10 was the warehouse system where you had the ability  
11 to receive the orders.

12 And then Vocollect would be used with the  
13 headset and the electronic device to then go and  
14 pick the orders and fill them?

15 A. Yes.

16 Q. And --

17 A. Sorry to belabor this. But it was DCOPS  
18 or BICEPS. The pharmacy group had their own  
19 software system that sent the orders to my system  
20 which was Manhattan.

21 Manhattan is what I can speak clearly on.

22 Q. Sure. Any other computer systems that  
23 were used at the HBC facility between 2009 and  
24 2014?

25 A. There were different components of

1 Manhattan that we would use for cycle counting,  
2 inventory reconciliation, entering purchase  
3 orders, but they were all housed under the  
4 Manhattan.

5 Q. Am I correct though that Manhattan did  
6 not have any functionality where the warehouse  
7 could set thresholds or quantities of suspicious  
8 orders of controlled substances using historical  
9 ordering patterns or things of that nature?

10 A. Not to my knowledge, no.

11 Q. So in terms of monitoring suspicious  
12 orders of controlled substances, is it fair to say  
13 that the HBC warehouse did not have any computer  
14 systems that were utilized on a systematic -- in a  
15 systematic way to monitor orders?

16 A. No. I don't believe that's fair to say  
17 that. We could monitor orders. We knew exactly  
18 what was coming in from the stores. We also knew  
19 exactly what was coming in from the vendors. And  
20 there were checks and balances in place.

21 In addition, the corporate team had full  
22 visibility of our inventory at all times and could  
23 see if there was any fluctuation whatsoever.

24 Q. So what I'm trying to separate out is  
25 corporate, because it's my understanding -- is it

1 fair to say other people who actually were in the  
2 corporate office using those computer systems  
3 would be more knowledgeable about what corporate  
4 did than you did?

5 A. About what corporate did.

6 Q. Yes.

7 A. But, again, our team at HBC was very in  
8 tuned or attuned to what was supposed to be on the  
9 shelf, what was supposed to come into the  
10 building, and what was supposed to go out of the  
11 building.

12 But none of those team members made decisions  
13 on what to bring in and what to ship out, but they  
14 had full visibility to see what was coming in and  
15 out. And if something didn't match in real time,  
16 they would see it and/or act upon it.

17 Q. Right. And you've discussed -- I mean,  
18 those are programs that are used to make sure the  
19 inventory count is correct; right?

20 A. That's one thing that can be derived  
21 from it.

22 The other is if you see that an order is or  
23 that a quantity has suddenly spiked or dropped  
24 from what should be happening, then there would be  
25 communication with the corporate offices to what

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1       counting we were doing or how frequently we were  
2       doing the cycle counts, you would immediately see  
3       that you were short two selling units. Or it  
4       could be an overage, but using two shorts in this  
5       example.

6           What our process or system at that time was,  
7       was we would not ship out of the facility until we  
8       reconciled where those two units were.

9           Q.    In that example that you gave though,  
10       that's an inventory count issue; right? The  
11       inventory is off.

12       A.    Correct.

13       Q.    Let me, I guess, ask you this. We've  
14       talked a lot about suspicious order monitoring  
15       today; right?

16       A.    Yes.

17       Q.    What is your understanding of a  
18       suspicious order?

19       A.    Anything that rises to the level of  
20       being suspect in count or quantity.

21       Q.    And how would something qualify as being  
22       suspect?

23       A.    I could only answer for myself  
24       personally.

25       You know, for me, the two units may be

1 suspect at the time within our walls. On a  
2 grander scale, I don't know that I can put the  
3 framework to that.

4 But if we at HBC saw anything I'll say out of  
5 the ordinary, our first communication is to the  
6 pharmacy group to understand what we're seeing.

7 I'm not saying that we did, but...

8 Q. And that's, I guess, what I'm trying to  
9 get an idea of, is what would be -- what criteria  
10 would the warehouse apply under your system or  
11 program to try to figure out whether a shipment is  
12 out of the ordinary.

13 A. So we still see it today even outside of  
14 the pharmacy area.

15 Our team members in that specific area, the  
16 narcotics room, we were very limiting on who went  
17 in there. Typically, no more than two team  
18 members a night would be in that room, and most  
19 times we tried to keep it to one.

20 They would get attuned to the normalcies, if  
21 you will, of orders going in and out of that room,  
22 because they're picking the same items over and  
23 over again day in and day out.

24 So, for instance, if they see a store  
25 typically would get ten selling units of a

1 particular item, and now all of a sudden the store  
2 has 50 selling units going out, the team members  
3 would bring it to our attention, either Christy  
4 Hart or whoever the supervisor is. And our first  
5 call would be to the pharmacy, is this truly an  
6 order that was placed and are those quantities  
7 that you absolutely want?

8 Q. So tell me then how HBC is able to  
9 figure out that that particular store usually  
10 orders ten of that item, and now they're ordering  
11 50?

12 A. A lot of that is just -- I'll categorize  
13 it as empirical from the team members -- not from  
14 the data, but from the team members working so  
15 closely with those products and being in that same  
16 area on a regular basis.

17 Q. So there's not -- so the identifying the  
18 suspect orders or the orders that are not  
19 ordinary -- I think your words were out of the  
20 ordinary -- that would fall on the particular  
21 pickers that are working at the facility to fill  
22 the orders, and they'd be relying on their  
23 experience and knowledge from doing that day in  
24 and day out filling orders?

25 A. As a first line. I can't answer for

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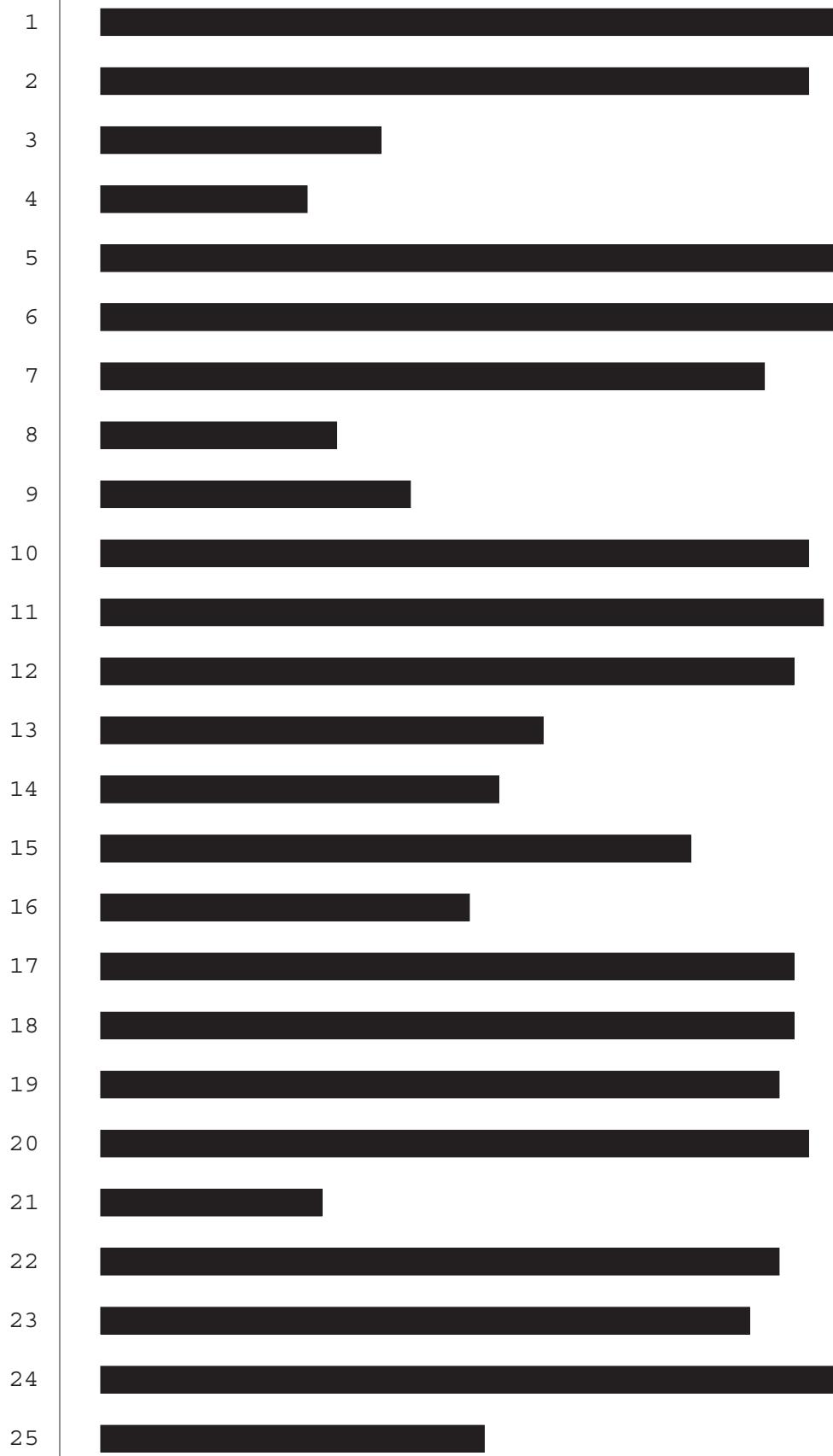
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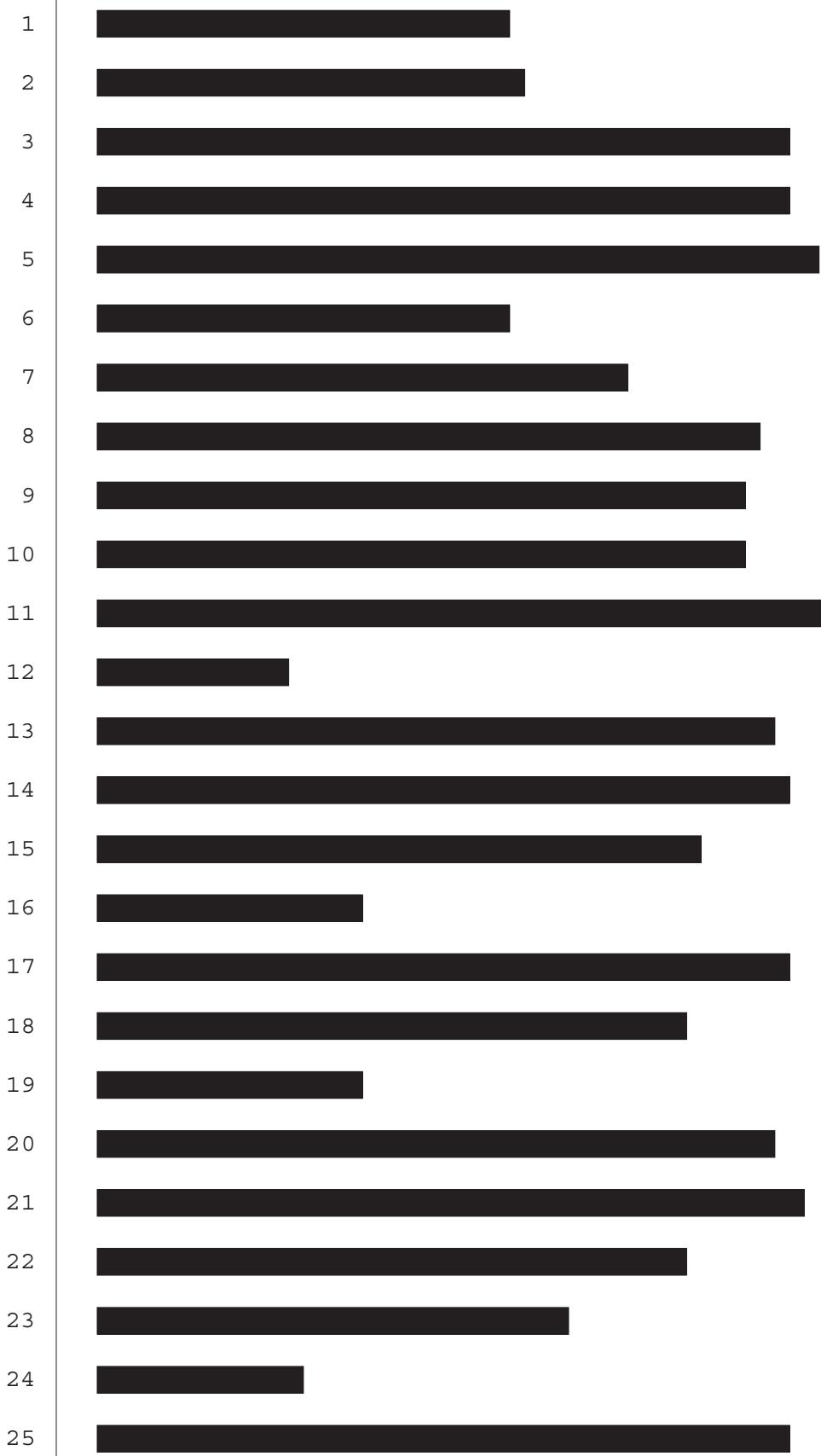


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101



1 that were blocked by the HBC facility?

2 A. I do not.

3 Q. Do you know whether or not there were  
4 any shipments of controlled substances that were  
5 blocked by the HBC facility as being suspicious  
6 orders?

7 A. I do not.

8 Q. Do you know whether or not there were  
9 any orders of controlled substances that were --  
10 the shipment was stopped so that an investigation  
11 could be conducted as to whether or not the order  
12 was legitimate?

13 A. Again, as time has passed, I do not.

14 Q. How many pickers are there? Is that the  
15 right term, pickers?

16 A. Pickers or selectors.

17 Q. Selectors. How many pickers or  
18 selectors, ballpark range, were there at the  
19 facility between 2009 and 2012?

20 A. Just in the Rx room?

21 Q. Yeah, exactly. Sorry. Yeah, in the  
22 controlled substance area.

23 A. In the controlled -- in the narcotics  
24 cages, we called it, again, we tried to limit that  
25 to no more than two in there at a time.

1 Q. Okay.

2 A. And more times than not, we kept it to  
3 one.

4 Q. So one or two selectors or pickers were  
5 actually filling the orders?

6 A. Yes.

7 Q. Between 2009 and 2012 though, how many  
8 total pickers or selectors were there employed by  
9 the HBC, employed at that facility that were  
10 filling the controlled substance orders?

11 A. It's hard to answer. You know, we've  
12 had selectors -- we're a union facility. Across  
13 that entire timeframe? I would -- maybe eight,  
14 six to eight, just in the narcotics room.

15 Q. And that's what I'm just trying to get  
16 an idea of, how many were employed at any  
17 particular point in time.

18 Meaning, you know, in 2009, if we went and  
19 looked at a particular month, how many selectors  
20 were employed focused on filling orders in the  
21 controlled substance room?

22 A. Again, still for a day, no more than  
23 two, typically, in that room. But --

24 Q. But for a week, let's say, or for a  
25 shift, in other words --

1           A. Well, as I'm saying, for a shift you  
2 would -- we tried to keep it to one or two, two  
3 being the max unless we -- there were -- flu  
4 season may create a time where we put three team  
5 members in that area. But, typically, it's one to  
6 two.

7           Q. And I guess what I'm trying -- and I'm  
8 not communicating very well, so I apologize.

9           I'm trying to get an idea of in any month,  
10 like how many selectors are there that are  
11 employed at that facility who, during that month,  
12 are filling orders of controlled substances?

13           A. Well, the team members are on four tens.  
14 So in any given month, it would typically be  
15 probably no more than four to six team members  
16 that could possibly rotate in and out of there.  
17 They -- you know, vacation, sick time, whatever,  
18 may cause a team member not to be available to  
19 select in that room for that day, then we would go  
20 to a different team member.

21           Q. And that's what I'm trying to get at.

22           You, as the operations manager, to have that  
23 control room staffed appropriately, to fill the  
24 orders that are coming in and out, you needed four  
25 to six pickers or selectors --

1 A. To get through the week, yes.

2 Q. -- to get through the week.

3 And approximately how much are those pickers  
4 and choosers paid, pickers or selectors paid? Are  
5 they paid by the hour?

6 A. They're hourly employees.

7 Q. And what do they get paid per hour?

8 A. I would have to look back at that time.

9 Average wage is probably 16. Don't quote me on  
10 that.

11 Q. Sure.

12 A. I haven't seen our contractual binder.

13 But probably at that time around \$16 an hour --

14 Q. And what is --

15 A. -- on average.

16 Q. -- the education level of the pickers or  
17 selectors?

18 A. It varies, but I would say the majority  
19 are high school, high school graduates.

20 Q. And were there some that were not high  
21 school graduates?

22 A. At that time -- I won't say this for  
23 fact, but I believe you had to have a GED  
24 equivalent or above.

25 Q. And were the pickers, just through

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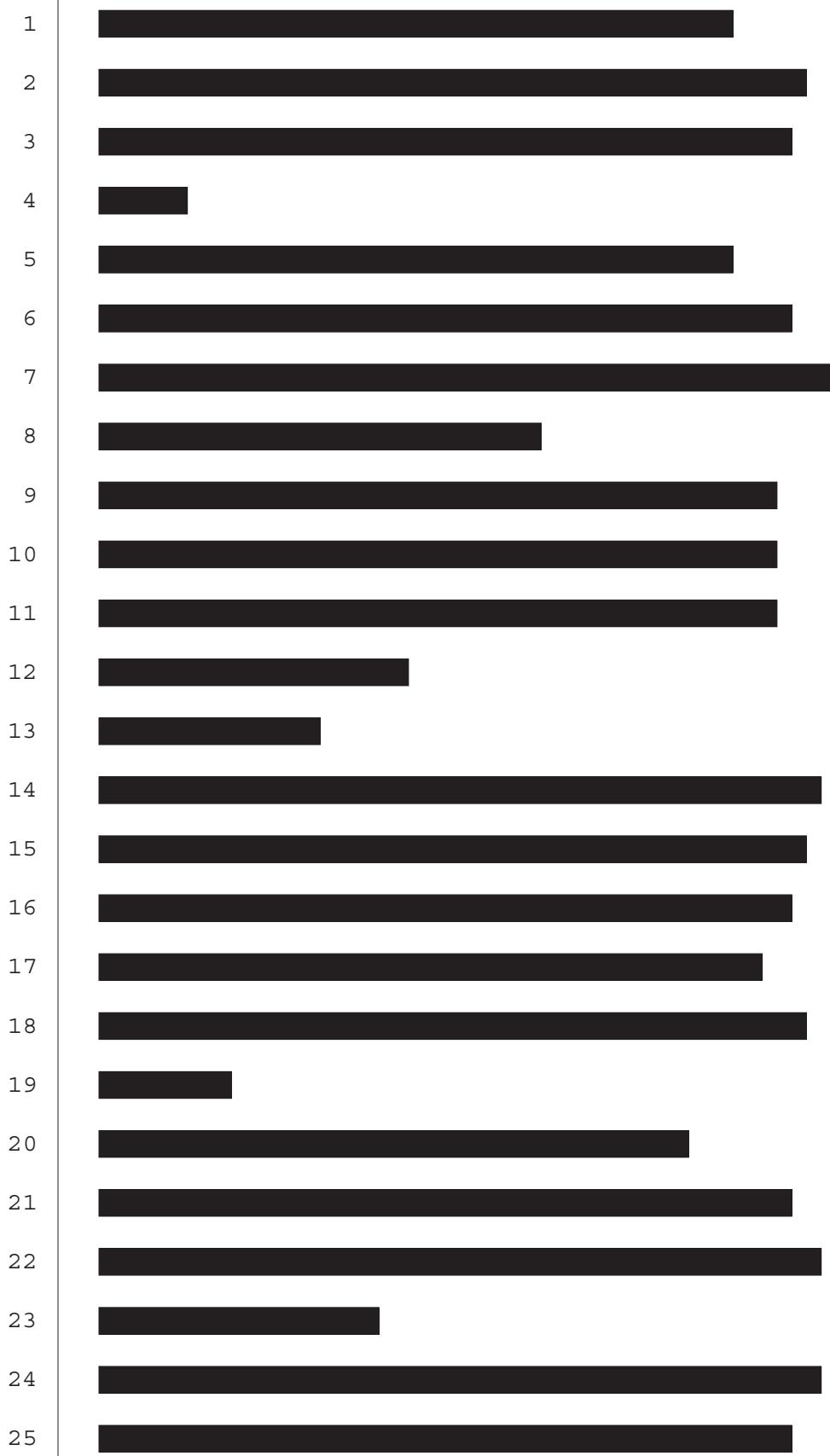
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4 (HBC-Durr Exhibit 10 was marked.)

5 BY MR. HUDSON:

6 Q. I'm going to hand you what's marked as  
7 Exhibit 10, and switch to a different topic.

8 Just a couple last questions here and a  
9 couple more emails.

10 I'll represent to you this is a drug fact  
11 sheet that was pulled from the DEA website  
12 sometime when hydrocodone was still a Schedule II,  
13 so prior to October of 2014.

14 And it indicates, on the first page,  
15 "Hydrocodone is the most frequently prescribed  
16 opioid in the United States and is associated with  
17 more drug abuse and diversion than any other licit  
18 or illicit opioid."

19 Do you have any knowledge or reason to agree  
20 or disagree with that statement?

21 A. I have no knowledge to agree or  
22 disagree.

23 BY MR. HUDSON:

24 Q. Between 2009 and 2014, the HBC facility  
25 did act as a distributor of hydrocodone

1 combination products; correct?

2 A. Yes.

3 (HBC-Durr Exhibit 11 was marked.)

4 BY MR. HUDSON:

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

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17 [REDACTED]  
18 [REDACTED]

19 BY MR. HUDSON:

20 Q. And, Mr. Durr, if you go back to  
21 Exhibit 10, Exhibit 10 is the DEA fact sheet that  
22 indicated that "Hydrocodone is the most frequently  
23 prescribed opioid in the United States and is  
24 associated with more drug abuse and diversion than  
25 any other licit or illicit opioid."

1       Are you there on Exhibit 10?

2       A.    Um-hum.

3       Q.    And down in that same paragraph, it says  
4       all hydrocodone are combination products; correct?

5       A.    It does.

6       Q.    So any hydrocodone being sold in the  
7       United States is going to be sold as part of a  
8       hydrocodone combination product; correct?

9       A.    That's what it states.

10      [REDACTED]

11      [REDACTED]

12      [REDACTED]

13      [REDACTED]

14      [REDACTED]

15      [REDACTED]

16      [REDACTED]

17      [REDACTED]

18      [REDACTED]

19      [REDACTED]

20      [REDACTED]

21      [REDACTED]

22      [REDACTED]

23      [REDACTED]

24      [REDACTED]

25      [REDACTED]



1       Exhibit 11?

2           A.    To a small degree.

3           Q.    Do you know -- assuming that any of  
4       these numbers are correct, and I'm qualifying  
5       that, but we're not sure -- what happened to these  
6       hydrocodone combination products shipped by HBC to  
7       the Giant Eagle pharmacies?

8           A.    They would have gone into our  
9       pharmacies.

10          Q.    And what happened to them after they  
11       went to the pharmacies?

12          A.    They would have filled legal  
13       prescriptions.

14          Q.    So, to your knowledge, were they  
15       diverted in any way?

16          A.    Not to my knowledge.

17          Q.    Do you know the difference between -- or  
18       do you know what the term diversion means?

19          A.    I do.

20          Q.    What does it mean to you?

21          A.    I believe that something is being pulled  
22       in a different direction than its intended purpose  
23       or intended sale or use.

24          Q.    You mentioned a couple of times in your  
25       testimony that HBC -- it's a single warehouse; is

1 that correct?

2 A. Yes.

3 Q. Located in Washington, PA?

4 A. Yes.

5 Q. Do you know what the size of that  
6 warehouse is?

7 A. 305,000 square feet.

8 Q. And of that 305,000 square feet, how  
9 much is dedicated to pharmacy operations?

10 A. There was 12,000 square feet and an  
11 additional 2,000 for a receiving area. So 14,000  
12 total.

13 Q. 14,000 for pharmacy?

14 A. Yes.

15 Q. Including all pharmaceutical products,  
16 even noncontrolled?

17 A. Yes.

18 Q. What portion of that 12,000 square feet  
19 were dedicated -- was the narc room, so-called  
20 narc room?

21 A. Maybe 2,000 square feet.

22 Q. Was the narc room partitioned off in  
23 some secure way from even the pharmacy room?

24 A. Yes.

25 Q. And was the pharmacy room partitioned

1 off from the rest of the warehouse?

2 A. Yes.

3 Q. And what was the rest of the warehouse,

4 the other 292,000 square feet, what was that

5 dedicated to?

6 A. That's health/beauty care items,

7 cigarettes, tobacco, candy, mints.

8 Q. Okay.

9 A. General merchandise.

10 Q. And was all that product shipped to

11 Giant Eagle grocery stores?

12 A. Yes.

13 Q. Did the HBC warehouse ship to any

14 entities other than affiliated Giant Eagle grocery

15 stores and Giant Eagle pharmacies?

16 A. Pharmacies, only Giant Eagle. For the

17 grocery side, we did have some nonbanners and

18 independent stores.

19 Q. Independent Giant Eagle stores?

20 A. Yes.

21 Q. All right. But for the pharmacy --

22 A. Giant Eagle only.

23 Q. -- was that Giant Eagle only?

24 A. Yes.

25 Q. And would that be to pharmacies

1 throughout the Giant Eagle regional chain?

2 A. Yes.

3 Q. Do you know approximately how many  
4 pharmacies are in the Giant Eagle regional chain?

5 A. I believe 200.

6 Q. About 200?

7 A. Yeah.

8 Q. Did Giant Eagle ever -- did the HBC  
9 warehouse ever supply any internet pharmacies?

10 A. No.

11 Q. Did the HBC pharmacy ever supply  
12 Schedule II opioids to any entity, including Giant  
13 Eagle?

14 A. No.

15 Q. Did the HBC warehouse -- with respect to  
16 the drugs at issue in this case, do you understand  
17 those to be Schedule II opioids?

18 A. Yes.

19 Q. And when Giant Eagle distributed --  
20 well, let me back up.

21 Giant Eagle never or the HBC warehouse never  
22 distributed Schedule II opioids; is that correct?

23 MR. HUDSON: Object to form.

24 THE WITNESS: No.

1 BY MR. BARNES:

2 Q. Did you understand hydrocodone  
3 combination products to be a Schedule III for a  
4 period of time before it was reclassified as a II?

5 A. Yes.

6 Q. And did the HBC warehouse, while it was  
7 a Schedule III, distribute hydrocodone combination  
8 products to Giant Eagle pharmacies only?

9 A. Yes.

10 Q. And when it was reclassified to a  
11 Schedule II, did HBC stop distributing that  
12 product?

13 A. Yes.

14 Q. Was that approximately in October of  
15 2014?

16 A. I believe so. Again, I was not there at  
17 that time.

18 Q. You talked a lot about the so-called  
19 inbound and outbound controls at the HBC  
20 warehouse. And I want to follow up a little bit  
21 on that.

22 By inbound, do you mean the purchasing into  
23 the warehouse?

24 A. Yes.

25 Q. Now, I want you to focus solely on

1 controlled substances.

2 Were you there when the cage system was set  
3 up at the HBC warehouse in 2009?

4 A. Yes.

5 Q. And did you have responsibilities in  
6 that role --

7 A. Yes.

8 Q. -- in getting ready to distribute  
9 Schedule III and IV and V controlled substances?

10 A. Yes.

11 Q. And you said that you had some  
12 interaction with DEA when doing that?

13 A. Correct.

14 Q. Does the name Lou Colissimo ring a bell  
15 to you?

16 A. It does.

17 Q. And who is he?

18 A. I believe he was the DEA inspector at  
19 the time.

20 Q. Was he from the regional DEA Pittsburgh  
21 office?

22 A. I believe so, yes.

23 Q. And did he come out to the facility to  
24 assist with setting up the facility for the  
25 distribution of Schedule III, VI, and V controlled

1 substances?

2 A. Yes.

3 Q. Did he assist with providing DEA input  
4 as to what the DEA wanted the warehouse to do in  
5 order to get a registration and license to  
6 distribute Schedule III, IV, and Vs?

7 A. Yes.

8 Q. And did that involve -- first, I'll  
9 break it down -- the physical plant itself, what  
10 the DEA wanted and required to distribute IIIs,  
11 IVs, and Vs?

12 A. Yes.

13 Q. And did you meet all those requirements  
14 with Agent Colissimo?

15 A. We did.

16 Q. Did he or his team inspect the facility  
17 before, during, and after construction?

18 A. Yes.

19 Q. Did they approve the facility in those  
20 inspections?

21 A. Yes.

22 Q. Now, beginning in 2009, when HBC first  
23 began distributing Schedule III, IV, and V  
24 controlled substances, you mentioned the so-called  
25 warehouse management system was called Manhattan?

1 A. Yes.

2 Q. How long had that -- that was a  
3 computerized system?

4 A. It was and is.

5 Q. And how long had that computerized  
6 system been in effect at the warehouse in 2009?

7 A. 2005, we brought that onboard.

8 Q. And does that control the inventory at  
9 the warehouse from beginning to end?

10 A. Yes.

11 Q. And does it also interface with the  
12 Giant Eagle pharmacy ordering system?

13 A. It does.

14 Q. Does the Manhattan system inside the  
15 warehouse, does it involve the use of scanners?

16 A. Yes.

17 Q. And is that given to all of the pickers?

18 A. Yes, it is.

19 Q. And, again, I'm just talking about the  
20 pharmacy area.

21 The Vocollect system, is that at the  
22 warehouse itself?

23 A. Yes.

24 Q. Does that interface with Manhattan?

25 A. Correct.

1           Q. And does the Vocollect system provide  
2 direction electronically to pickers for each order  
3 that has come in from the pharmacies?

4           A. Yes.

5           Q. And can you explain to us a little bit  
6 more in detail how the Vocollect system works.

7           A. The orders come from the stores. Again,  
8 they come through our system, routing first, and  
9 then into the Manhattan system. They interface  
10 with Vocollect.

11           The team members are assigned a particular  
12 area in the building, pharmacy being one of those  
13 areas, and the narcotics cage being a specific  
14 area.

15           The team member would state that they were  
16 ready to work in a particular region. Once they  
17 identify the region, they would also identify what  
18 printer they were going to work from.

19           From there, the system -- based on some  
20 controls, meaning everything in the building is  
21 weighed and measured so that we can properly cue  
22 the totes in the trailers, the team members would  
23 then be given a set of labels that are specific to  
24 what should go in that tote.

25           Q. And what is a tote? Is that a box of

1 some sort?

2 A. You could call that a plastic box, if  
3 you will, with a lid that folds in from both  
4 sides.

5 Q. Okay.

6 A. Once they identified the region, the  
7 printer, and get their set of labels, then we  
8 would dictate how many labels they would get so  
9 that we could maintain balance in selection. We  
10 didn't want a particular selector stuck on one  
11 store too long, potentially holding up routes.

12 Once that happened, the team member would  
13 then be directed to an aisle, a bay, a shelf, a  
14 slot. And then they would be told to pick the  
15 quantity that the pharmacy had ordered.

16 As they're picking the quantities, they had a  
17 wrist scanner, and they would pass the individual  
18 quantities in front of that wrist scanner.

19 Q. Do you mean the bar codes --

20 A. Yes. The bar code.

21 Q. -- of what was being picked?

22 A. The bar code of what's being picked.

23 And as they would do that, they would place  
24 it in the tote.

25 And then as they were finished, before they

1 would get their next order to pick, they would  
2 have to scan or call in a check digit of that slot  
3 to confirm they were in the right slot.

4 Once they do that, then they would just -- it  
5 was redundant after that of selection process.

6 Q. So is the picking process through  
7 Manhattan and the Vocollect system highly  
8 computerized and monitored continually throughout  
9 the day?

10 A. Yes.

11 Q. And does the system specifically tell  
12 each picker where exactly -- you said the aisle,  
13 the shelf, and the slot -- they're supposed to go  
14 to make the pick?

15 A. Yes.

16 Q. And as they physically make the pick, it  
17 scans right into the system?

18 A. Yeah. The team members pushing --  
19 pulling it past a scanner.

20 Q. They scan the bar code on their scanner?

21 A. Correct.

22 Q. So then the system knows that it's in a  
23 specific tote at that time?

24 A. Correct.

25 Q. And what happens to -- when the picker

1 is done picking in the narcotics room, what does  
2 he do then?

3 A. So the team members not in the narcotics  
4 room would take their tote -- and there was an  
5 opening with a conveyor going into the narcotics  
6 cage -- they would put their tote on there. It  
7 would go into the narcotics room. And then the  
8 narcotics selector would pick their portion of  
9 that order and place it in the tote.

10 Q. I see. So not all the pickers in the  
11 warehouse were allowed in the narcotics room?

12 A. Correct.

13 Q. And you said only one or two at a time?

14 A. Yes.

15 Q. And once that picking was done in the  
16 narcotics room, what happened -- and it was put  
17 into the tote -- what happened to the tote?

18 A. So once the selection is done and we  
19 believe that we are ready to put that on the  
20 trailer for shipment, our system has a process  
21 where we have to scan every single individual  
22 tote.

23 If you for some reason would miss a tote or  
24 something was unaccounted for, the system would  
25 not allow you to do what's called close load. It

1 then forces you down to a specific tote ID to  
2 answer why or where that tote might be.

3 Q. So did you need to close the load before  
4 you shipped?

5 A. Yes.

6 Q. And once it was ready for -- the load  
7 was closed and was ready for shipment, what  
8 happened to the tote?

9 And I guess it was on a pallet of some sort?

10 A. There would be pallets -- they were  
11 already palletized. The pallet would be  
12 shrinkwrapped and then loaded onto the trailer.

13 Q. And the trailers, who handled the --  
14 whose trailers were they?

15 A. They were Talon Logistic or Giant Eagle  
16 trailers.

17 Q. Did you ever do any shipping with  
18 McKesson?

19 A. McKesson -- we would deliver to  
20 McKesson, and then McKesson would deliver out to  
21 the pharmacies from there.

22 Q. Okay. So that's outgoing inventory.

23 In the process you described, the so-called  
24 Manhattan system, through the use of bar codes and  
25 scanners, would know every step of the picking

1 process all the way up to the close load and is  
2 ready for shipment?

3 A. Yes.

4 Q. And if there were any discrepancies in  
5 that, you couldn't ship?

6 A. Yeah. We wouldn't ship.

7 Q. Now, how about on the inbound side; who  
8 determines what's coming into the warehouse?

9 A. At that time that would have been Greg  
10 Carlson's group.

11 Q. At corporate?

12 A. At corporate.

13 Q. And did they manage incoming inventory?

14 A. Yes.

15 Q. Corporate?

16 How would the warehouse know what to expect?

17 Trucks just show up or would you be told by  
18 corporate that expect --

19 A. It would be scheduled through the  
20 system. We would know that a vendor or, excuse  
21 me, a carrier was coming, and on that particular  
22 carrier would be a specific vendor.

23 Q. By the way, what type of physical  
24 barriers or controls did you have for outgoing or  
25 incoming shipments of narcotics?

1           A.    We had several.  We have the cage  
2    itself.  Outside of the cage, we had numerous  
3    cameras.  I believe we had probably 30 or 40  
4    cameras within that small confine.

5           Q.    30 or 40 cameras --

6           A.    Yes.

7           Q.    -- for the pharmacy room itself?

8           A.    Yes.

9           Q.    How about inside the narc room?

10          A.    I believe we at least had anywhere from  
11        eight to 12 different angles looking at it, or  
12        beaming into it, or an overlap.

13          Q.    And was that to guard against theft and  
14        diversion?

15          A.    Correct.

16          Q.    All right.  And so once it was  
17        palletized and ready for shipment, did it just sit  
18        in the warehouse next to a crate of oranges?

19          A.    No.  We had two areas that -- it would  
20        remain in the pharmacy room or it would be  
21        monitored as it was being loaded.

22          Once it was loaded, the door was shut and  
23        sealed, and those sealed numbers would be  
24        communicated or written down on the outgoing  
25        paperwork.

1 Q. You mean shut and sealed inside the  
2 tractor-trailer?

3 A. Correct. In the trailer at -- while it  
4 was stationed in our door. And from there, it was  
5 leaving.

6 Q. Were there any precautions taken to  
7 avoid people being able to slip in alongside the  
8 trailer or under the trailer?

9 A. Yes. On a standard trailer in our door  
10 50 and 51, they butted up very tightly against the  
11 building itself. And they were at the height  
12 where there were no gaps around that.

13 If we had an inbound UPS/Fedex load coming  
14 in, those are box trucks that are at a lower  
15 level, and they can't use those normal dock. So  
16 what we had there was -- we had bollards, steel  
17 bollards that were drilled into the ground. We  
18 had a steel plate welded onto those bollards so  
19 that no one could slide up under the truck or  
20 right into the building.

21 We also had created a cage where, when the  
22 UPS driver or Fedex driver would come, they would  
23 pull those cages to the sides of the vehicle.  
24 Again, to deter anyone from having quick or easy  
25 access into the building.

1           If the driver was not delivering something  
2 through that door and they had maybe one or two  
3 cases and they were delivering them, first they  
4 would have to ring a buzzer.

5           We had a camera right there so we could see  
6 who was out there and if anybody was around or  
7 near them, then make a determination if we were  
8 going to let them into the building.

9           If we were going to let them into the  
10 building, we then had a secondary cage, if you  
11 will, at the door. That was locked at all times  
12 and monitored. Then we would let them into there,  
13 and then decide whether we were just going to  
14 transact with them in the cage or let them into  
15 the room itself.

16           Q. This is all related to narcotics  
17 transactions?

18           A. This related to any of the pharmacy  
19 items. Again, the narcotics would have been in  
20 the cage separate of that.

21           Q. Okay.

22           A. So they weren't coming directly into  
23 that narcotics cage.

24           Q. All of these physical controls, were  
25 these something that Agent Colissimo from the DEA

1 had asked HBC to install, or did this include some  
2 of his recommendations and then --

3 MR. HUDSON: Object to form.

4 THE WITNESS: I would say they included.

5 BY MR. BARNES:

6 Q. And was he aware during his inspections,  
7 before you began distributing controlled  
8 substances, about all these safety precautions?

9 A. Yes.

10 Q. Would the warehouse get copies of the  
11 purchase orders issued by the buyers or the  
12 category managers at corporate?

13 A. Yes. We had the ability to print those  
14 in-house.

15 Q. And so if a truck pulled up, you would  
16 be able to pull the purchase order?

17 A. Yes.

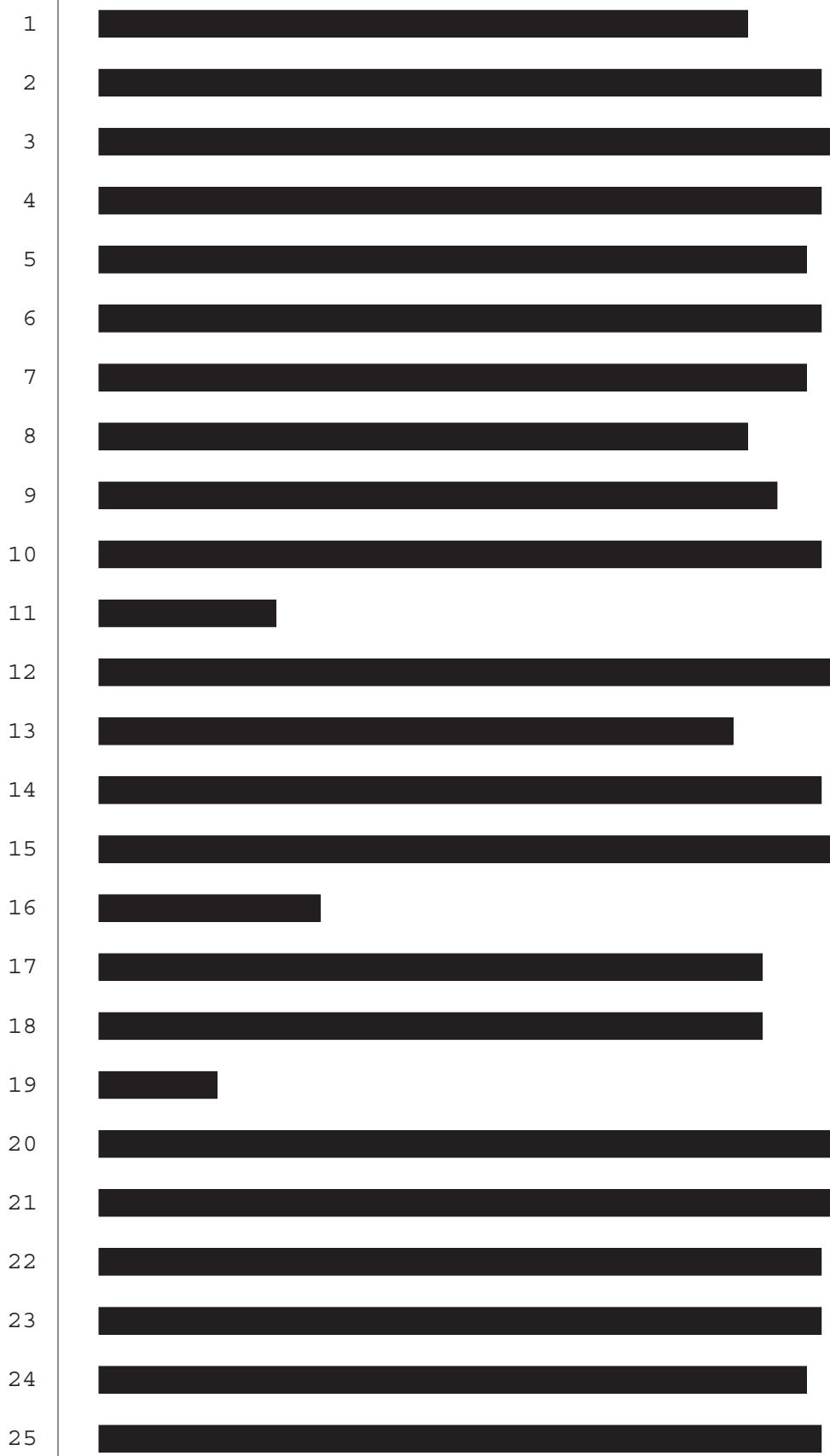
18 Q. And were there controls to match what  
19 was being delivered to the purchase order?

20 A. Yes. Absolutely.

21 So we had a confined area where we would do  
22 the pharmacy receiving, whether it be narcotic or  
23 otherwise.

24 If it was a temperature-sensitive item, then  
25 we would bring it all the way into the room. If

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1 you counted 25 for that pallet. You would then  
2 scan the license plate next. And that now marries  
3 those units to that license plate number.

4 And from there, when the put-away function is  
5 done, the team member would scan that license  
6 plate number. And from there, it would tell them  
7 or direct them where to put it away in the  
8 facility.

9 Q. So the put-away function, was that also  
10 part of Manhattan?

11 A. Correct.

12 Q. And would Manhattan tell the put-away  
13 team members exactly where the narcotics needed to  
14 go in terms of slots and shelves and aisles in the  
15 narcotics room?

16 A. Yes.

17 Q. And how was that process monitored to  
18 make sure that the team members actually put away  
19 what had been received?

20 A. Through our cycle count process.

21 Q. Tell us about the cycle count process.

22 A. So as stated earlier -- again, I may not  
23 get the exact numbers, but we were really robust  
24 on the cycle counts within the narcotics cage.

25 We were counting at the beginning of the

1 shift. We were counting when the team members  
2 would go on their breaks. We were counting at the  
3 end of the selection of each route prior to  
4 loading that route.

5 So to answer that question about the  
6 put-away, if for some reason there would be a  
7 discrepancy on the pick shelf, then your first  
8 obvious area to look would be up in your reserves  
9 to see if a replenishment was not properly made.

10 Q. So this cycle counting for narcotics,  
11 you said earlier and just now, was done multiple  
12 times every day?

13 A. Yes. Every day during every selection  
14 process.

15 Q. So let's just take an example of an HCP,  
16 Vicodin. That would get counted at the beginning  
17 of a shift?

18 A. Yes.

19 Q. In the narcotics room?

20 A. Yes.

21 Q. And then at the end of a shift?

22 A. All through the shift.

23 Q. All through the shift.

24 A. Correct.

25 Q. How would it get counted through the

1 shift?

2 A. As I stated, when the team members would  
3 go on their breaks, the support staff would stay  
4 and remain back and do a count.

5 When the selection was done for that route,  
6 we'd go in and count the cage again.

7 Q. Oh, at every break and at every  
8 shipment?

9 A. Yes.

10 Q. And then at the end of the day?

11 A. Correct.

12 Q. So how many times, for example, would  
13 Vicodin get counted in the specific slot and shelf  
14 that it was on in the warehouse in any given day?

15 A. In a number of routes, anywhere from  
16 like four to six times.

17 Q. Why were you doing all that cycle  
18 counting?

19 A. We wanted to ensure the integrity of  
20 our -- of our inventory. But also it gives you an  
21 opportunity to catch anything that may be -- that  
22 may be amiss.

23 Q. Would it give you an opportunity to spot  
24 theft and diversion?

25 A. It would.

1 MR. HUDSON: Object to the form.

2 BY MR. BARNES:

3 Q. And was the Manhattan system the  
4 computerized system that was monitoring every step  
5 of this inbound and outbound process at the  
6 warehouse?

7 MR. HUDSON: Object to the form.

8 THE WITNESS: Yes.

9 BY MR. BARNES:

10 Q. Did the DEA come in from time to time  
11 and look at the warehouse system and check  
12 inventory and ask for records?

13 A. Yes, they did.

14 Q. How often did that happen?

15 A. At least annually.

16 Q. At least annually.

17 And what would they typically ask for when  
18 they came in?

19 A. They almost always -- I would say they  
20 always went to the narcotics cage. They would  
21 show up unannounced, introduce themselves, state  
22 the nature of their business.

23 And they would -- I don't know whether they  
24 randomly or how they decided on their list, but  
25 they would show us or tell us which items they

1 wanted to do counts on. And they would also tell  
2 us what dates they want to see our records from.

3 Q. So would they take, for example -- I'll  
4 use Vicodin again. They'll say, we want all your  
5 records on Vicodin for, what, a month or two-month  
6 or three-month period of time?

7 A. Each scenario, they would give us a  
8 specific -- I believe a specific date or week in  
9 the past. Even they'd say, Show me your records  
10 from June of 2010.

11 Q. And would you give them the records?

12 A. We would.

13 Q. Did any of these unannounced inspections  
14 ever result in the DEA telling you that you're  
15 doing something wrong at the warehouse?

16 A. No, they did not.

17 Q. Did the DEA ever find any discrepancies  
18 with respect to the controlled substances that HBC  
19 was distributing?

20 A. No, they didn't.

21 Q. Were the pickers in the narc rooms, were  
22 they trained on the Manhattan system?

23 A. Yes.

24 Q. On how to use the scanners? How to  
25 pick? Things of that nature?

1 A. Yes.

2 Q. The headsets that they were wearing, was  
3 Manhattan instructing through the headsets?

4 A. Vocollect was instructing, yes.

5 Q. I'm sorry. Vocollect.

6 I mean, was there like a computerized voice  
7 of some sort?

8 A. Yes.

9 Q. If I was wearing one, it would say, go  
10 to aisle 3, bay 7, shelf 2, slot 7?

11 A. Yes.

12 Q. And then as I pick -- I'm a picker -- I  
13 go to that slot, and I brush the bar code past my  
14 wrist scanner?

15 A. Correct.

16 Q. And Manhattan then knows I did what I  
17 was just told to do?

18 A. Correct.

19 Q. And does Manhattan then track the  
20 inventory as it's being loaded into totes and then  
21 all the way out the door?

22 A. Yes.

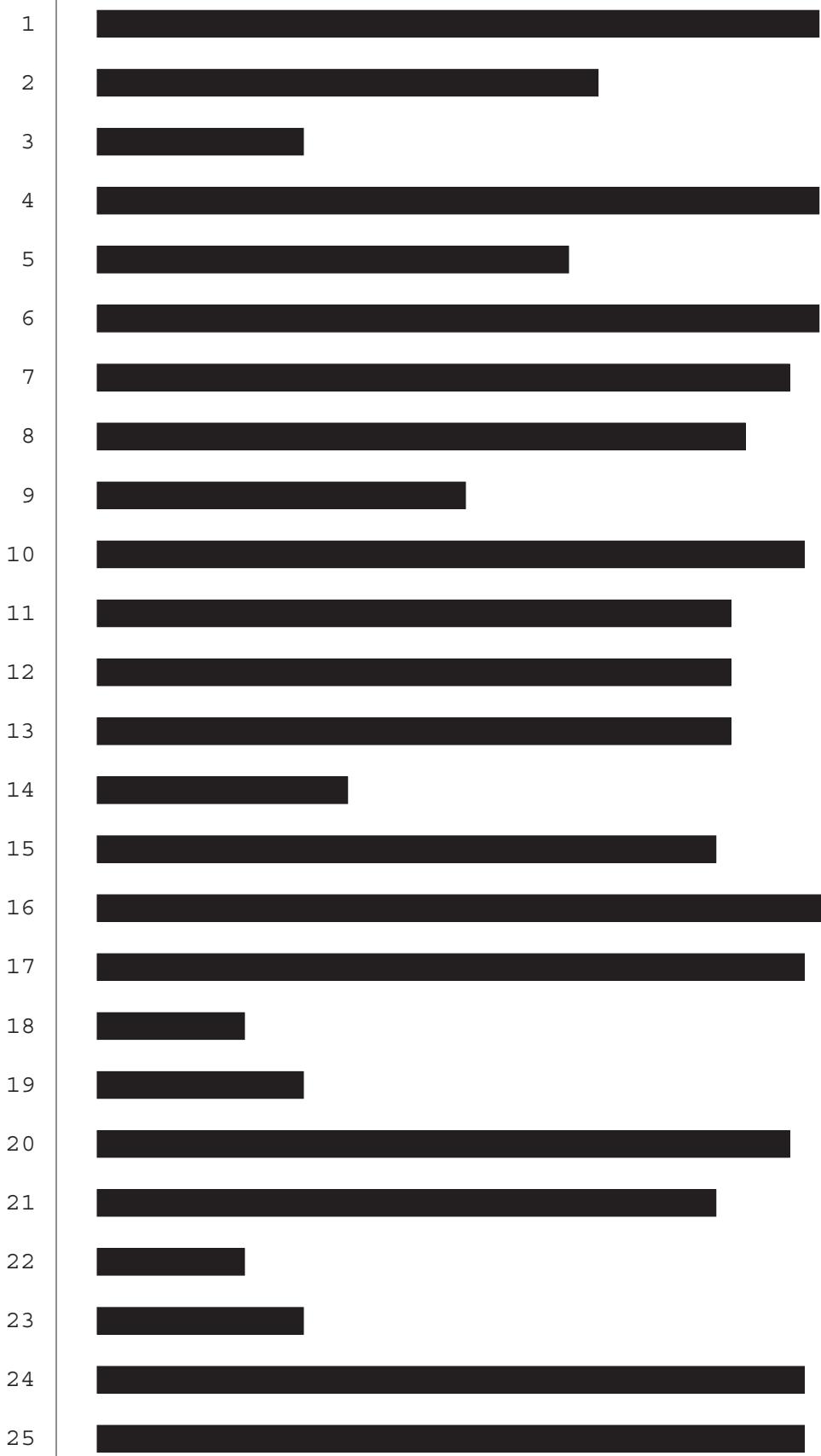
23 Q. You talked about the narcotics room  
24 pickers.

25 Over time, would they become familiar with

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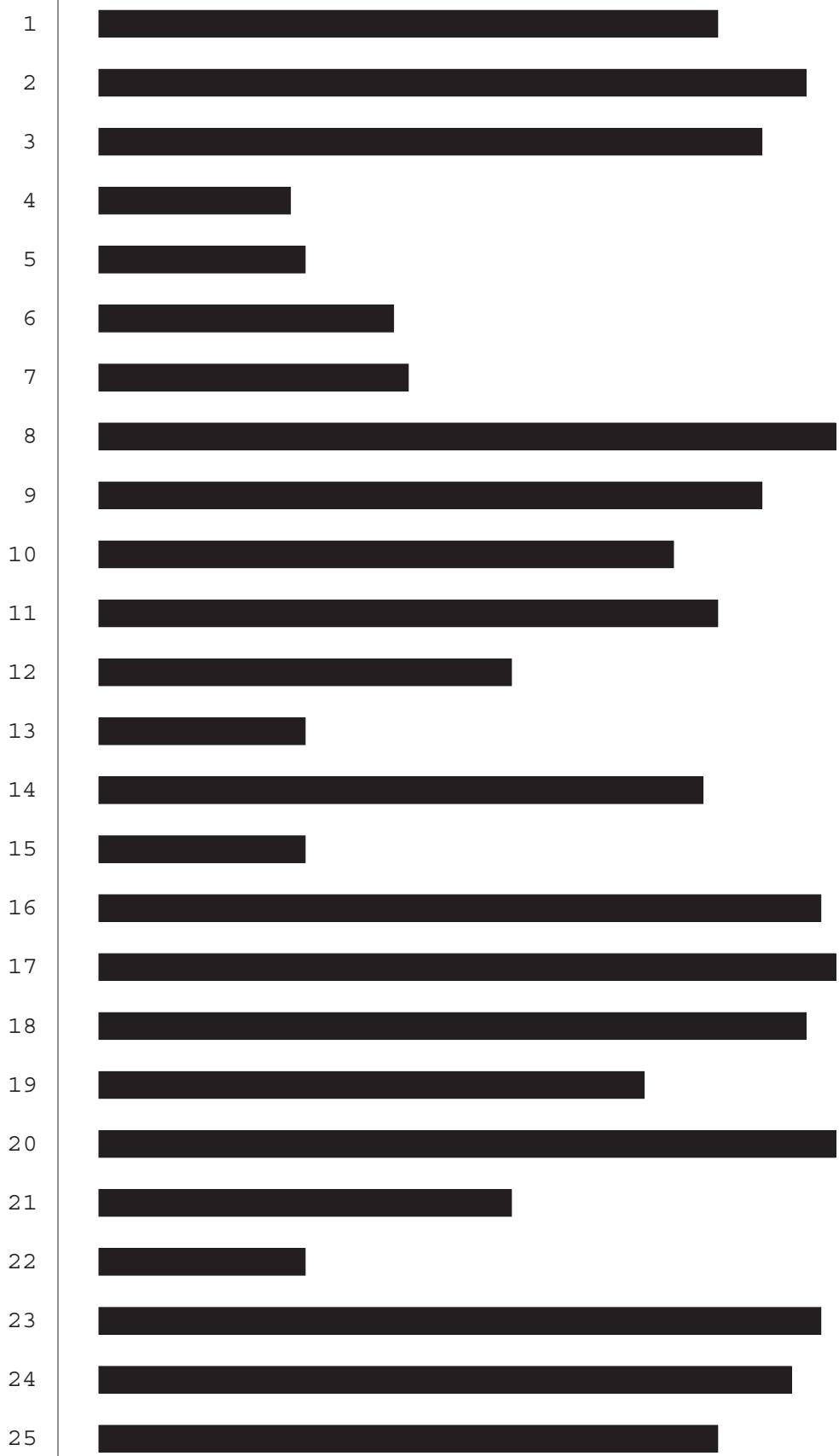
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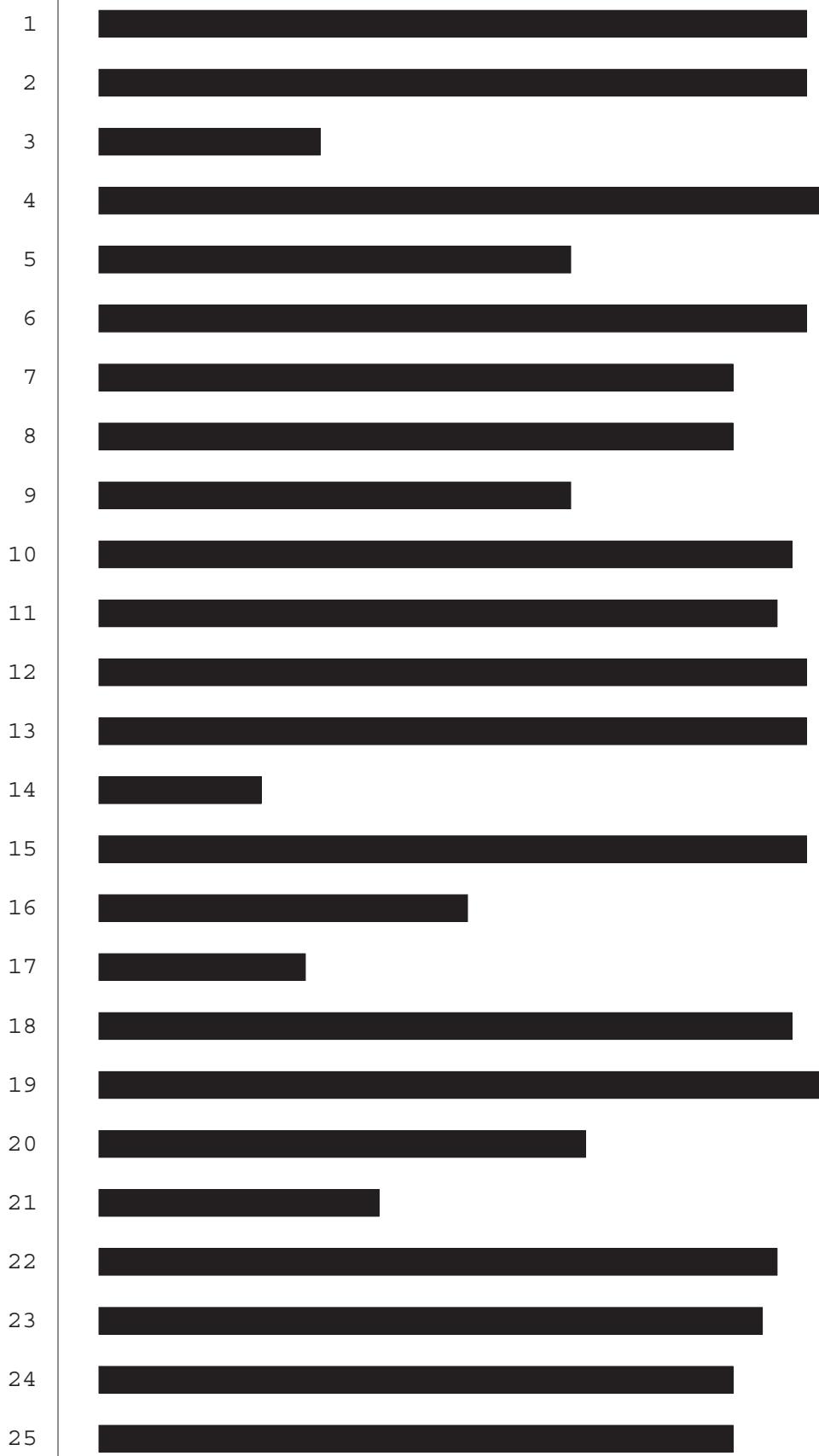
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1       outdated products.

2           Were these policies things that were followed  
3       by HBC from 2009 going forward?

4           A.    Yes.

5           Q.    The next policy on page 636 is a damaged  
6       and return product policy.

7           Was this a memorialization of a preexisting  
8       policy that went all the way back to 2009?

9           A.    Yes.

10          Q.    And what is the purpose of this type of  
11       policy?   What is its function?

12          A.    To ensure that any damaged or returned  
13       products were being handled properly, and if they  
14       required a quarantine, that they were properly  
15       quarantined off.

16          Q.    Would this damaged or returned product  
17       be monitored by the Manhattan system?

18          A.    Yes.   Just the fact that it says, "All  
19       damaged product must be removed from active  
20       inventory," you would have to go into Manhattan  
21       to remove that from active inventory.

22          Q.    Okay.

23          A.    So there would be a record of that.

24          Q.    The next policy is -- on page 638 is the  
25       suspicious order policy.   Do you see that?

1 A. I do.

2 Q. It says, "Identified individuals from  
3 Giant Eagle sourcing, pharmacy compliance, and HBC  
4 team members must review pharmacy customer orders  
5 and order trends on a regular and for-cause basis  
6 to identify suspicious drug orders."

7 Do you see that?

8 A. I do.

9 Q. Was that something that was in effect in  
10 2009 going forward?

11 A. Yes.

12 Q. And were suspicious orders blocked and  
13 reported to the appropriate regulatory authority  
14 within the timeframe set out in the policy?

15 MR. HUDSON: Object to the form.

16 THE WITNESS: I can't say that there  
17 were any that were specifically blocked.

18 BY MR. BARNES:

19 Q. But does this memorialize a preexisting  
20 policy?

21 A. Yes.

22 Q. Do you know, one way or the other, if an  
23 order was flagged as suspicious or as an order of  
24 interest to a pharmacy, would the order be held or  
25 would it be shipped to the pharmacy?

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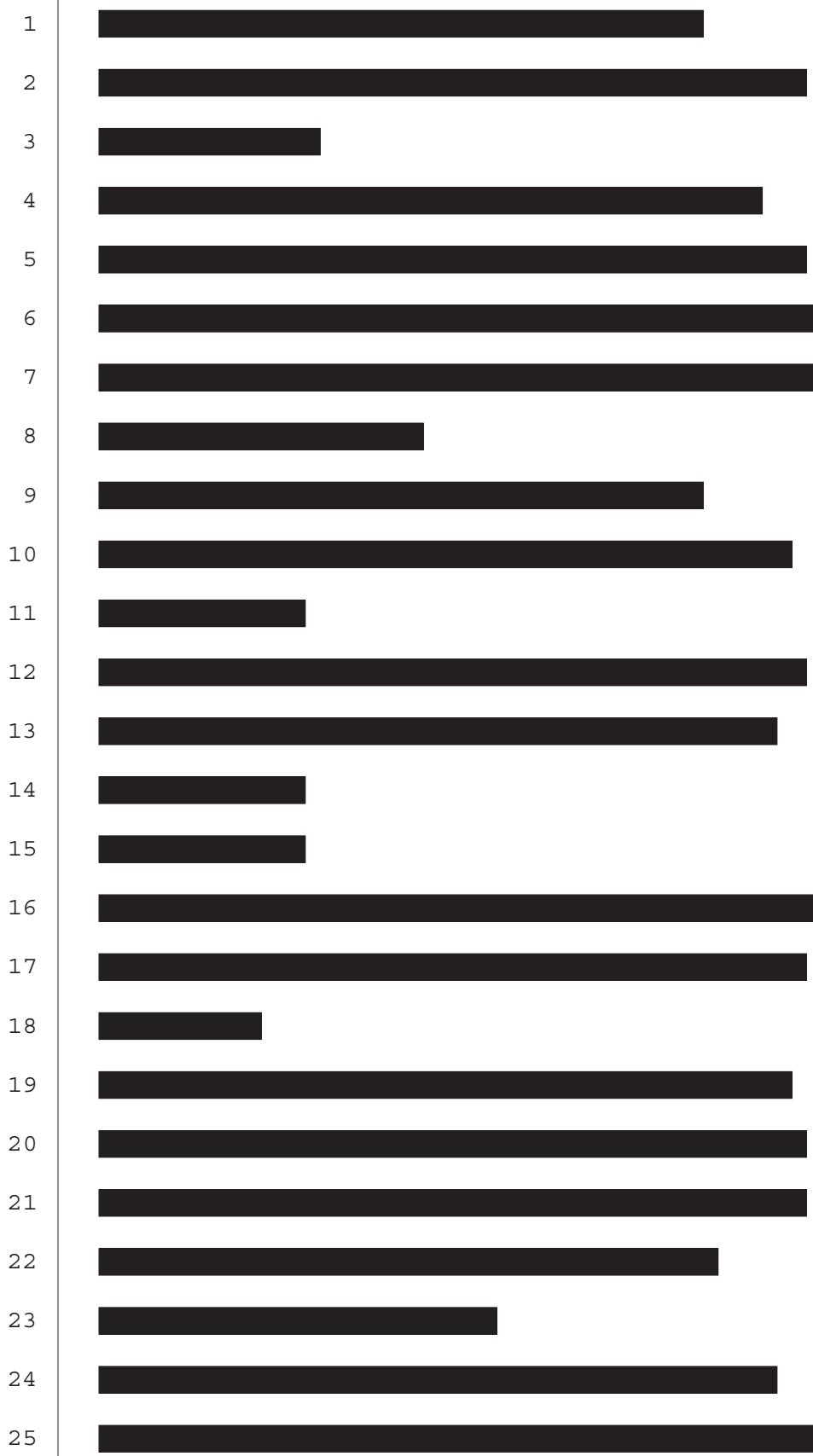
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1 A. Again, getting rusty, but yes.

2 Q. What is the main purpose of the security  
3 requirement, in your understanding?

4 MR. HUDSON: Object to the form. Lack  
5 of foundation.

6 BY MR. BARNES:

7 Q. What does it require?

8 A. Theft diversion and suspicious order.

9 Q. And do you know whether or not  
10 compliance with that regulation is something that  
11 is dependent upon the specific facts of each  
12 specific distributor?

13 MR. HUDSON: Object to the form.

14 THE WITNESS: I would say yes.

15 BY MR. BARNES:

16 Q. In working with the DEA and during their  
17 multiple inspections before, during, and after the  
18 HBC narcotics room was set up or any of their  
19 surprise audits, did they at any time ever give  
20 you any indication that HBC was not in full  
21 compliance with the security requirement?

22 A. No, they did not.

23 MR. HUDSON: Object to the form.

24 BY MR. BARNES:

25 Q. What is your understanding of whether or

172



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1 A. Not really.

2 Q. Do you know whether -- you learned at  
3 some point that a threshold system was added to  
4 the system of controls at the warehouse?

5 MR. HUDSON: Object to the form.

6 Misstates his testimony. He's already testified  
7 he wasn't aware of that.

8 MR. BARNES: Pardon me?

9 THE WITNESS: I would agree. At that  
10 time I was not aware.

11 BY MR. BARNES:

12 Q. At what time are we talking about?

13 A. In '13 and '14.

14 Q. But when you came back to the HBC  
15 facility in 2015, did you learn that there was --

16 A. At some point I learned that there was  
17 something in place.

18 Q. Involving a threshold system?

19 A. I wasn't aware of the details of how the  
20 system was operating.

21 Q. Did the DEA get involved when the Giant  
22 Eagle Rx distribution center was being  
23 constructed?

24 A. Yes.

25 MR. HUDSON: Object to the form.

1           I thought you were stopping me from asking  
2 questions because you said --

3           MR. BARNES: I was. But I didn't want  
4 to leave the record -- since you opened the door  
5 to a little bit of questioning --

6           MR. HUDSON: Fair enough. Proceed.

7           MR. BARNES: -- I can't resist walking  
8 through it.

9           MR. HUDSON: Sure.

10 BY MR. BARNES:

11           Q. Did they perform a similar function with  
12 respect to advising Giant Eagle as to what they  
13 wanted at that facility both in terms of physical  
14 and other types of controls?

15           A. Yes, they did.

16           Q. And did Giant Eagle follow the DEA's  
17 advice and recommendations?

18           A. Yes, they did.

19           Q. Did the DEA ever advise you or anybody  
20 else at HBC that it had to keep every email or  
21 every document or record every phone call ever  
22 made with respect to any order?

23           A. No, they did not.

24           Q. Are you aware of any policy at all that  
25 any of that had to ever be retained?

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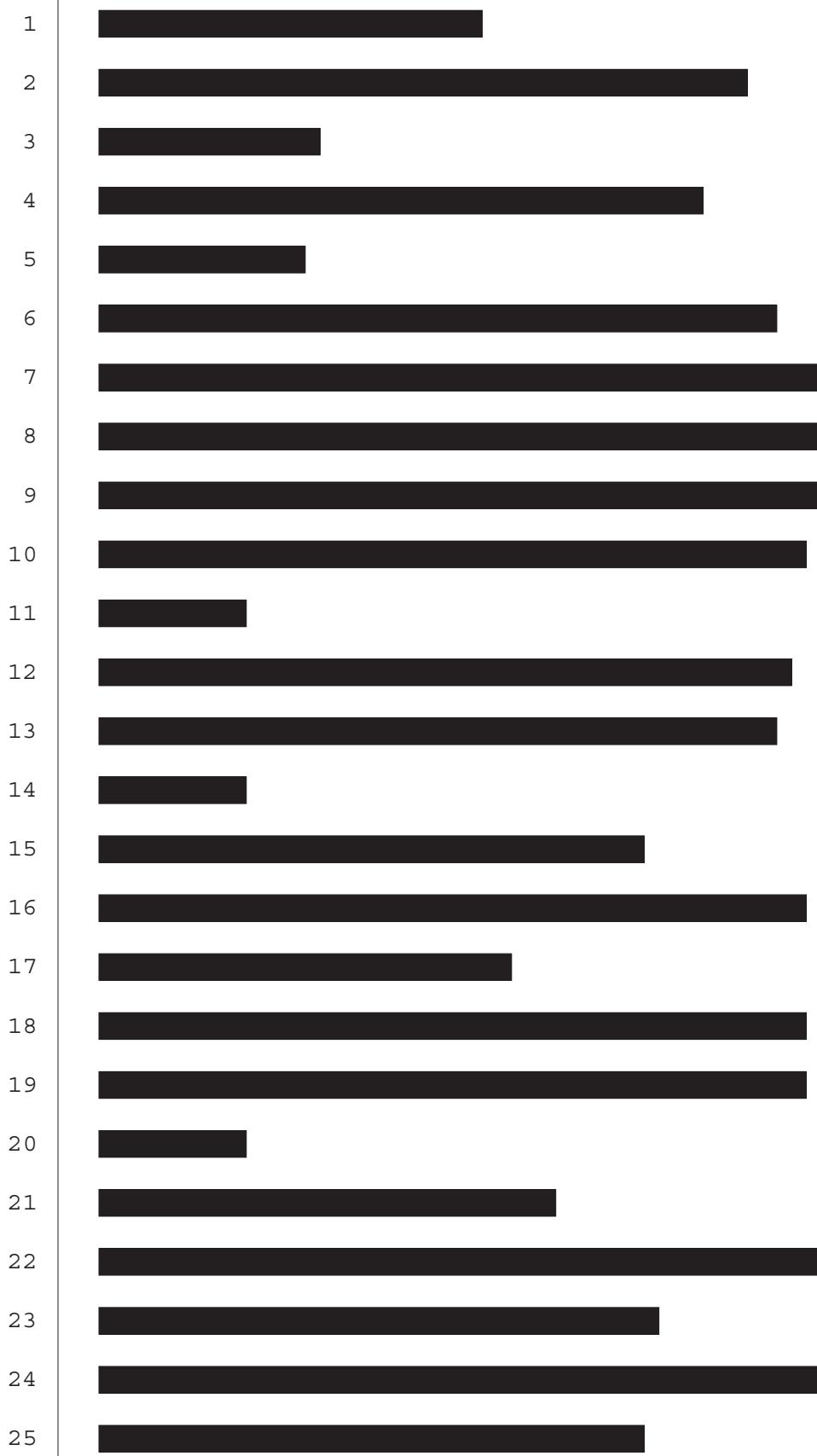
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1 investigations discussed?

2 A. No.

3 Q. One of the things you were asked about  
4 is your opinion of whether or not there could be  
5 suspicious orders in the system that Giant Eagle  
6 and HBC had.

7 Do you remember those questions by HBC's  
8 counsel?

9 A. I do.

10 Q. What is your idea or your understanding  
11 of what a suspicious order is?

12 A. It's my own personal view of it.

13 Anything that's not in the quantities or in the  
14 format that it was intended to be. Meaning a  
15 store called for two units and discovered that it  
16 only got one.

17 In itself, that becomes suspect and requires  
18 investigation.

19 Q. Any other examples you can come up with  
20 of suspicious orders?

21 A. Not specifically.

22 Q. So are you aware of any time when, at  
23 HBC, the inventory counts were off?

24 A. Again, not specifically. But I've got  
25 to believe through the course of our operation,

1       there would have been a time where the inventory  
2       would have been off.

3           Q.     And in that situation, would that be a  
4       potential risk for diversion?

5           A.    No. I don't believe so. Again, because  
6       of the close circuit or the -- how will I say  
7       it -- the fact that we were distributing to  
8       ourselves, you know, the next stop or step would  
9       have been that it would have gone to a pharmacy,  
10      and there were checks and balances at the  
11      pharmacy.

12           So there's a lot of layers that it would have  
13      to go through.

14           Q.    If a picker went and just went in and  
15      took an item and then bar-coded it as if it had  
16      or -- in other words, found out some way to -- by  
17      the way, was there ever any theft, that you're  
18      aware of, that ever occurred at the HBC facility?

19           A.    Yes.

20           Q.    Approximately how many times?

21           A.    One.

22           Q.    And when did that happen?

23           A.    I got to believe it was 2012.

24           Q.    Was that a picker or selector?

25           A.    No.

1 Q. Who was that?

2 A. It was one of the managers.

3 Q. What was his or her name?

4 A. Andy Zelaski.

5 Q. Andy Zelaski was caught stealing?

6 A. Yes.

7 Q. Was it controlled substances?

8 A. I don't know the form that -- of whether  
9 it was or not. I don't believe it was.

10 Q. But he was caught stealing narcotics?

11 A. No. I don't believe it was.

12 Q. What was he caught stealing?

13 A. It was Viagra.

14 Q. Viagra?

15 A. Yes.

16 Q. And that was a manager?

17 A. Yes.

18 Q. How long had that been going on?

19 A. It happened one time, and he was  
20 immediately caught by our systems.

21 Q. Okay.

22 A. Christy caught it through the counts and  
23 immediately reported him.

24 Q. Do you see, in your mind, a connection  
25 between the security requirements or the inventory

1 count issues and monitoring for suspicious orders  
2 of controlled substances?

3 MR. BARNES: Object to the form.

4 THE WITNESS: I'm not sure I'm following  
5 you on that.

6 BY MR. HUDSON:

7 Q. Well, making sure the inventory count is  
8 right is one of the things you've talked about a  
9 lot today; right?

10 A. Correct.

11 Q. But the inventory count can still be  
12 right, but you could have a suspicious order;  
13 correct?

14 MR. BARNES: Object to form.

15 BY MR. HUDSON:

16 Q. Let me try it this way.

17 A. I would say yes, but through our systems  
18 it would still be caught.

19 So if my inventory is correct, the checks and  
20 balances on the other side of our closed loop at  
21 the pharmacies would detect it. As soon as they  
22 would detect it, because they're checking that  
23 inbound order specific to each unit, sell unit,  
24 they would call back to us and say, Guys, I was  
25 supposed to get two. I got one.

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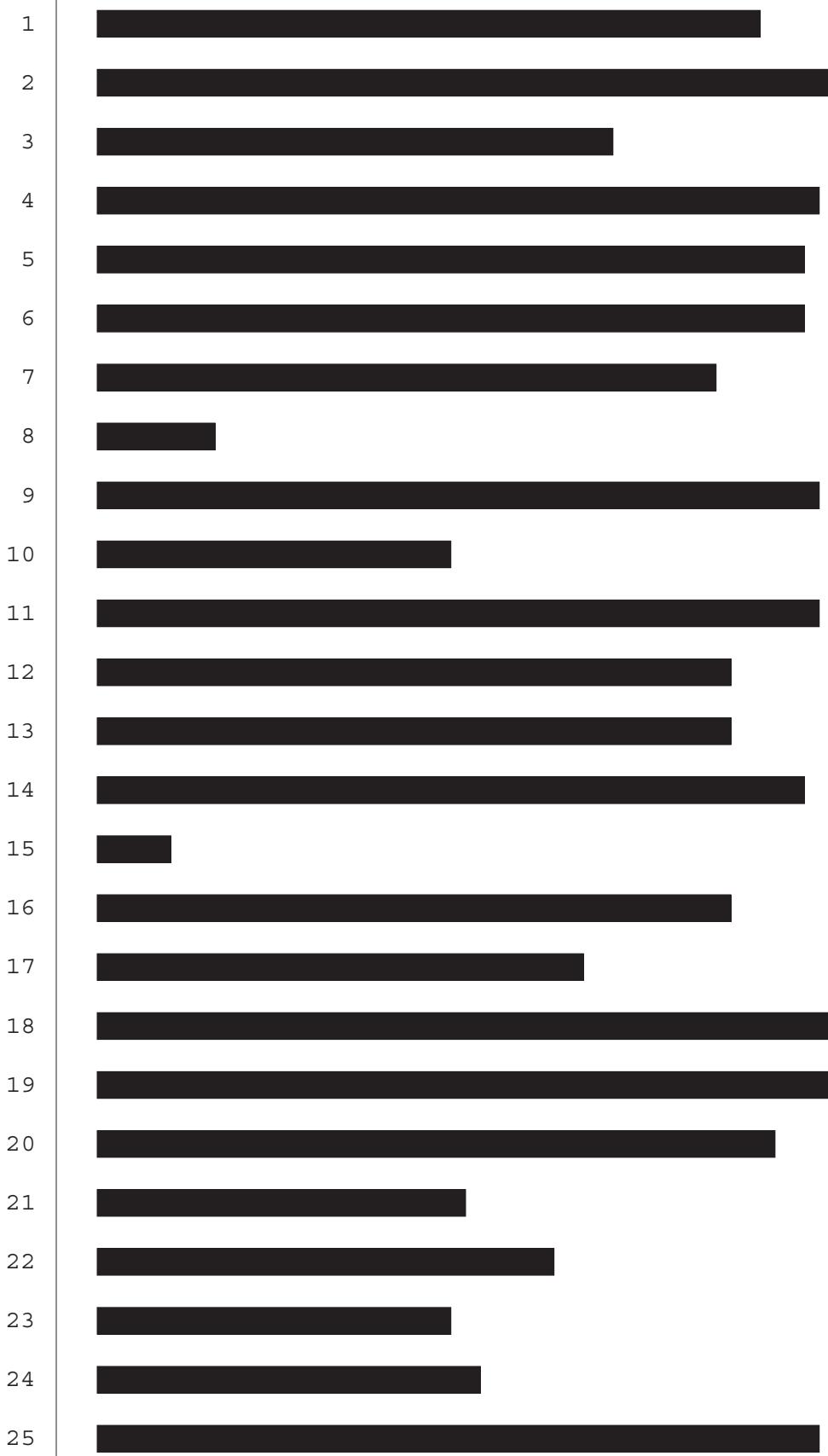
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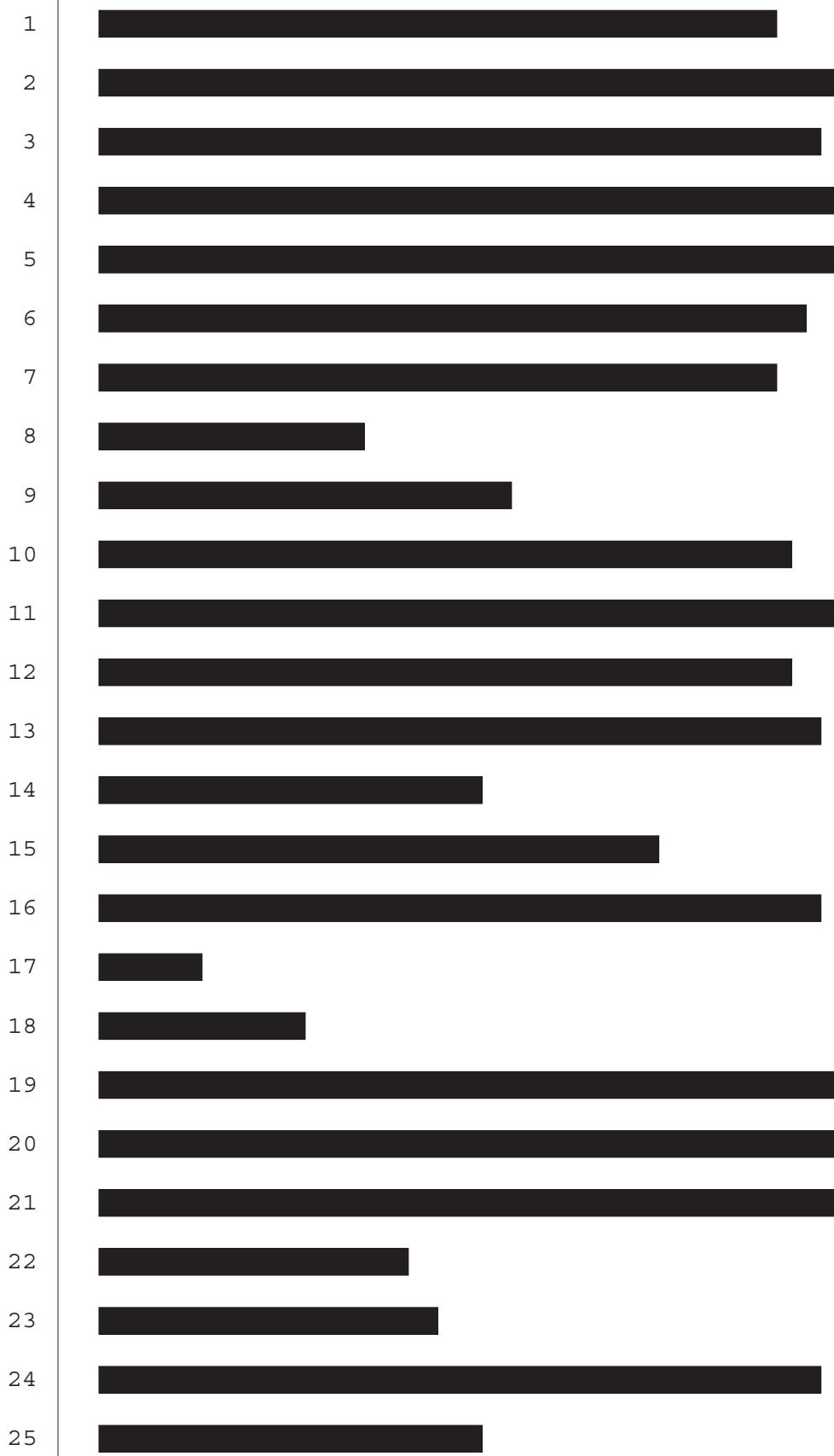
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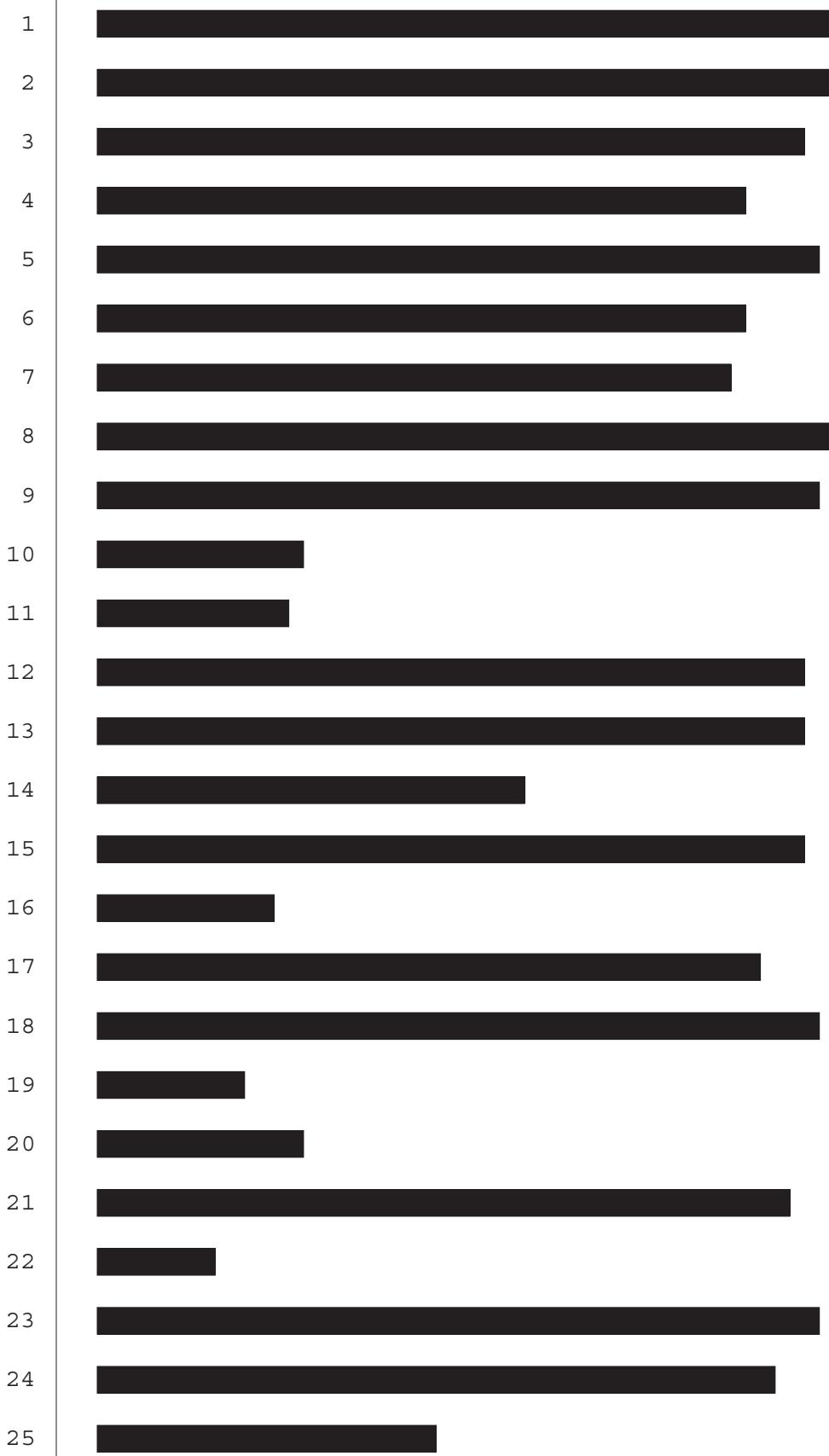
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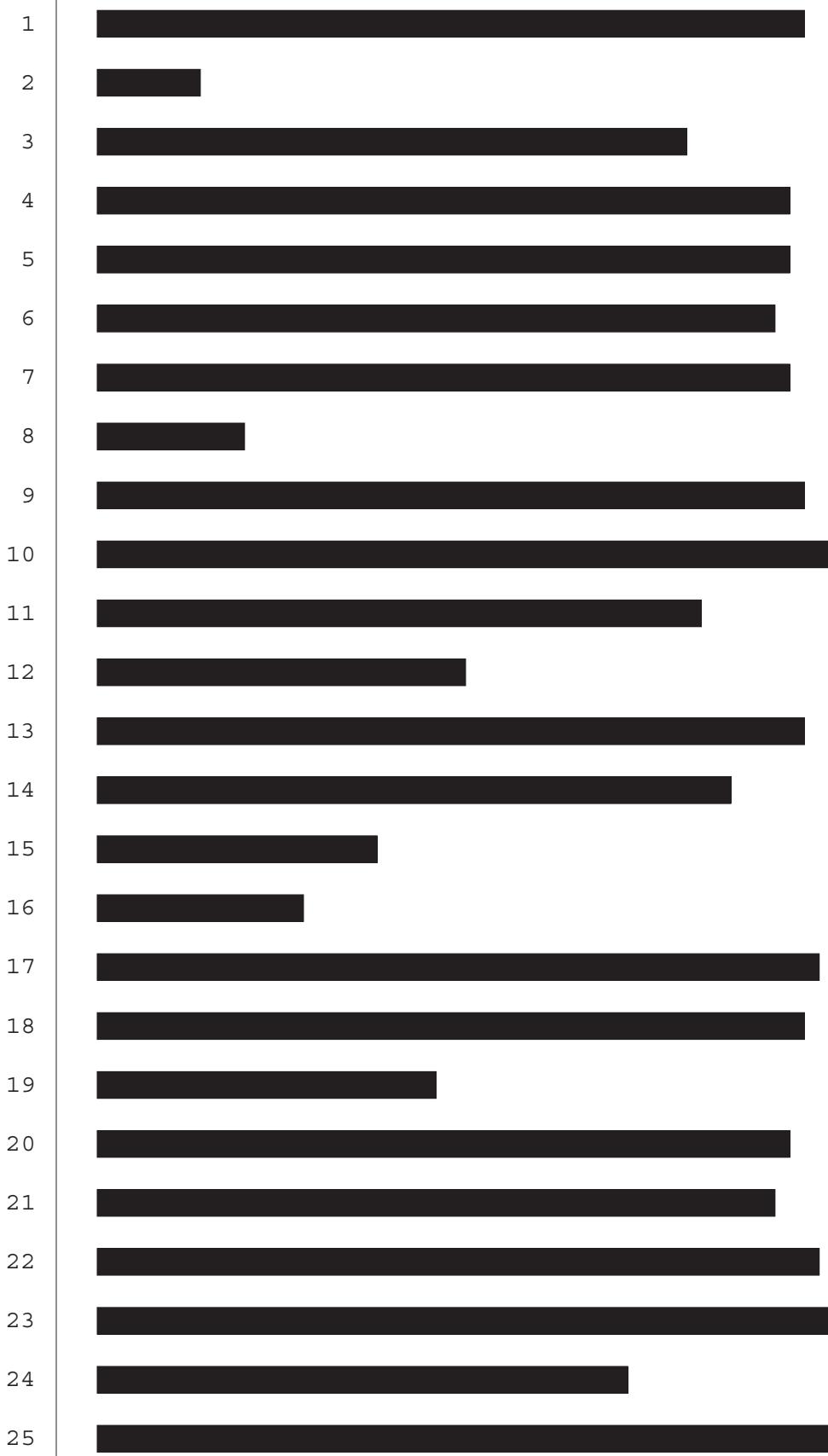




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25 MR. BARNES: I also think, Ty --

1 MR. HUDSON: No further questions.

2 MR. BARNES: -- it's way beyond.

3 No further questions.

4 THE VIDEOGRAPHER: This marks the end of  
5 the testimony given by Walter Durr. We are going  
6 off the record. The time is 1:29 p.m.

7 (Whereupon, at 1:29 p.m., the taking of  
8 the instant deposition ceased.)

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1 COMMONWEALTH OF PENNSYLVANIA )  
2 COUNTY OF ALLEGHENY ) SS:  
3

4 C E R T I F I C A T E

5 I, Ann Medis, Registered Professional  
6 Reporter, Certified Livenote Reporter and Notary  
7 Public within and for the Commonwealth of  
Pennsylvania, do hereby certify:

8 That WALTER WAYNE DURR, the witness  
9 whose deposition is hereinbefore set forth, was  
10 duly sworn by me and that such deposition is a  
11 true record of the testimony given by such  
12 witness.

13 I further certify the inspection,  
14 reading and signing of said deposition were not  
15 waived by counsel for the respective parties and  
16 by the witness.

17 I further certify that I am not related  
18 to any of the parties to this action by blood or  
19 marriage and that I am in no way interested in the  
20 outcome of this matter.

21 IN WITNESS WHEREOF, I have hereunto set  
22 my hand this 25th day of January, 2019.

23  
24 Notary Public  
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211

1 COMMONWEALTH OF PENNSYLVANIA ) E R R A T A  
2 COUNTY OF ALLEGHENY ) S H E E T

3 I, WALTER WAYNE DURR, have read the foregoing  
4 pages of my deposition given on January 22, 2019,  
and wish to make the following, if any,  
5 amendments, additions, deletions or corrections:

6 Page Line Change and reason for change:

7 \_\_\_\_\_

8 \_\_\_\_\_

9 \_\_\_\_\_

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18  
19 In all other respects, the transcript is true and  
correct.

20  
21 WALTER WAYNE DURR

22  
23 \_\_\_\_\_ day of \_\_\_\_\_, 2019.

24 \_\_\_\_\_  
25 Notary Public